

Amphictyony and Covenant

A Study of Israel in the Pre-Monarchy Period

by

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Where reference is made in the notes to another note in the thesis without any page reference being given, that note is to be found in the same chapter as the one where the original reference occurs.

INTRODUCTION

The following study is concerned basically with the question of the origin of Israel's consciousness of itself as the people of Yahweh. The term 'Israel', with the significance 'people of Yahweh', is found used of both northern and southern elements of the people in spite of their political divisions; and, furthermore, the collection and arrangement of the heterogeneous traditions now set together in the Pentateuch presupposes the existence of such an 'all-Israel' idea at an early date.

Recent investigation has tended to emphasize the diverse origins of those tribes which later came to constitute this 'Israel'. They are taken to have been independent clans and families wandering on the desert fringe, which were constituted as tribes only after their gradual settlement in the land of Palestine, at which time these tribes also came together in the form of an amphictyony. This is, at any rate, the line of investigation followed by the Alt-Noth 'school'. By those who adhere to this view Israel's national consciousness, and therewith, presumably, its consciousness of itself as the people of Yahweh, is considered to have developed within the framework of the amphictyony.

On the other side, there is the view, associated particularly with the American scholars W.F. Albright and J. Bright,

which, while accepting the theory of the existence of an amphictyony, argues for a close association of many, if not all, the Israelite tribes already in the pre-settlement period. It is characteristic of this view that it follows much more closely the course of events presented in the Biblical narrative. In particular, the picture of a united onslaught on the land by the combined tribes is to a large extent accepted on the basis of archaeological discoveries.

The use to be made of archaeology in the reconstruction of Israel's history is one of the greatest bones of contention among the representatives of these two approaches. The one view is charged with 'nihilism', and the other with an uncritical acceptance and application of archaeological results. However, probably all would still agree that our primary source for the reconstruction of this history is the text of the Old Testament itself. So it is the Old Testament which must be examined first by the historian, and no amount of extra-biblical data can absolve him from such an examination.

It is here, I believe, that the greatest advances have been made by German Old Testament scholarship; for, having studied the works of Noth I cannot help being impressed by his painstakingly brilliant treatment of the Old Testament and his all too credible reconstruction of the processes involved which led ultimately to the presence of Israel in the land and to the production of a systematically

arranged account of its origins.

While it is very probable that much more will be learned on this subject through following up the methods instituted by Alt and Noth, it is also true, however, that even here misgivings are aroused when it comes to the results which have been achieved. An attempt has been made here to subject some of these results to close scrutiny, and to see in how far they conform with the evidence which is available.

In particular, the theory of the existence of an amphictyony in Israel of the pre-monarchy period is examined. This has been done on isolated occasions in the past, and from the scholars concerned I have learned much. Nevertheless, I think it is true to say that while they have raised some cogent objections against a theory which has gained such wide acceptance among scholars of all nationalities, they have not, in most cases, dealt adequately with the implications of their views. These implications concern the difficulties which are then encountered concerning the existence of this 'all-Israel' consciousness. If the amphictyony did not exist, then how is one to account for the fact that all the Israelite tribes considered themselves to be united as the people of Yahweh? It is unlikely that the monarchy period of Saul, which is the only time in which the Israelites can be claimed to have formed a sort of political unit, could have given rise to this idea, particularly since the latter should probably be seen as the presupposition of the former. So one is forced to look

to the pre-settlement period for the basis for such a conception.

The problem here involves finding historical conditions in which there could have arisen a form of religion common to both Judah and the north. This is because Israel's consciousness of itself as the people of Yahweh is a religious idea and thus its origin should be sought in the context of its faith; and also because it is with the possibility of contact between Judah and the north, and, moreover, contact so close that faith in Yahweh could arise as common to both elements, that there is the greatest difficulty for the period of the Judges and of the monarchy.

Investigation along these lines has led to the conclusion that Israel's really formative period is to be seen, not in any amphictyony in the period of the Judges, but in the pre-settlement period at Kadesh. It was in this context that two significant events must be seen to have taken place. On the one hand, it was here that contact was established between what were later to become inhabitants of the northern and southern parts of the land of Palestine; and, on the other hand, it was also here that faith in Yahweh, which we later find common to Judah and the north, found its beginnings and first development. In this way it is possible to account for the difficulties which stand in the way of the amphictyony theory, and also to account for the fact that in later times in spite of all disunity the Israelite tribes still formed a single unit as the people of Yahweh.

CHAPTER I

The Organization of the Israelite Tribes in Palestine in the Period of the Judges.

(a) The Theory of the Amphictyony.

Since the publication, in 1930, of Noth's thesis¹, the idea that Israel in the pre-monarchy period was a federation of twelve tribes, constituted on the pattern of the later Greek amphictyonies, has been accepted in one form or another by most scholars, although there have not been lacking those who rejected the theory. It is the purpose of this chapter to review this theory in the light of more recent work, and to determine in what form, if at all, the institution of an amphictyony may fit the facts that are at our disposal for this period.

The concept of a federation of twelve tribes meeting regularly to take part in a ceremony of covenant renewal at a central sanctuary has formed the basis of much recent scholarship, dealing especially with the origin and development of Israelite religion and law which were normative for the nation from that time on. What is of prime importance for the theory is the essential unity of Israel centred round a common sanctuary in the early period before the rise of the monarchy.

1. M. Noth, Das System der zwölf Stämme Israels (BWANT IV, I), Stuttgart 1930.

Israel, as we know it from the Old Testament, is thus seen by Noth as a confederacy of twelve tribes which came into existence in Palestine during the pre-monarchy period.² The evidence for the existence of such a confederacy is drawn from a variety of sources, both within and without the Old Testament, though the extra-biblical evidence is mainly used to supplement and confirm the picture derived from the Old Testament.

In being thus constituted Israel was by no means peculiar, for the Old Testament itself mentions other groupings of either twelve or six tribes.³ Of these, however, little more can be said except that the traditions of these tribal groupings probably derive from a time before the tribes in question had properly organized themselves into states. But as far as the Israelite tribes are concerned, the Old Testament offers more detail. There are two lists of the tribes to be considered: the Blessing of Jacob in Gen. 49;

2 cf. Noth, The History of Israel (2nd Eng. Edit.), London 1960, p.53.

3 Gen. 22: 20-24 (twelve Aramean tribes descended from the twelve sons of Nahor, eight by his wife and four by his concubine); Gen. 25: 13-16 (twelve sons of Ishmael); Gen. 36: 10-14 (twelve tribes of Edom); Gen. 25: 2 (the six sons of Keturah who are eponyms of Arabic tribes); Gen. 36: 20-28 (six tribes from the six sons of Seir); cf. Noth, Das System, pp. 43f. But that these groups of tribes had amphictyonic organization is denied by H.M. Orlinsky, "The Tribal System of Israel and Related Groups in the Period of the Judges", Studies and Essays in Honor of A.A. Neuman, edit. M. Ben-Horin, B.D. Weinryb, S. Zeitlin, Leiden 1962, pp. 382 ff.

and the list of Israelite families in Nu. 26⁴. Although basically similar, they also present important differences, and it is from these differences that a reliable indication can be attained of the relative dates of the lists. In the Blessing of Jacob there is a series of sayings about the twelve tribes in the order: Reuben, Simeon, Levi, Judah, Zebulun, Issachar, Dan, Gad, Asher, Naphtali, Joseph and Benjamin. In Nu. 26 there are again twelve tribes, but here Levi has been omitted and its place taken by Gad, while the number twelve is preserved by the division of Joseph into Ephraim and Manasseh. From this it can be concluded fairly certainly that the system of tribes represented by the Blessing of Jacob is older than that represented by Nu. 26. For in the unlikely event of it having been the other way round one would have to understand that Levi as a late-comer into the system deposed Gad from third place to a position fairly near the end.⁵ On the other hand, if the system represented by Gen. 49 is the earlier it is possible to explain how Levi came to be omitted. Gen. 49:5-7, together with the story of Gen. 34, reckon Levi as a 'secular' tribe alongside the other tribes.

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4. In the first chapter of Das System, Noth also deals with other tribal lists, such as the account of the birth of the sons of Jacob in Gen. 29f; The Blessing of Moses in Deut. 33, and others. But these are found to be of secondary importance, either (as in the case of Gen. 29f) because the order of the tribes is based simply on the requirements of narrative artistry, or (as in the case of Deut. 33) because the list is late and omits certain tribes, and thus represents a 'degeneration' of the system.
 5. Das System, p. 24

Apart from these passages Levi never appears in this capacity. Otherwise Levi is solely a priestly tribe to which no land is assigned in the territorial lists of areas inhabited by the tribes in Palestine. Thus, it can be concluded that the inclusion of Levi in Gen. 49 presupposes conditions of a very early time of which we have no accurate knowledge, while the omission of Levi, as in Nu. 26, reflects the actual circumstances of the period about which we are better informed.⁶ Therefore Gen. 49 preserves the tradition of a tribal system which antedates the system presupposed by Nu. 26.

Two other conclusions which may be drawn from a study of these lists concern the numbers of the tribes. The fact that in the later system, where Levi is omitted, Joseph is subdivided into Ephraim and Manasseh reveals a concern to preserve the number twelve as basic to the tribal grouping.

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6. Noth does not commit himself on the question if there is any actual historical connection between the old 'secular' tribe of Levi and the priestly tribe of Levi, cf. Das System, p. 25 n.3; *idem*, History, p.88 n. 2. Why it was that Gad in particular was 'promoted' to the third place in the system of Nu. 26 is not so clear. It may possibly have a historical background in the absorption of Reuben by Gad, cf. H.-J. Zobel, Stammesspruch und Geschichte, BZAW 95, 1965, pp. 64 f., and see also the Moabite Stone line 10, where Gad is said to lie on Moab's northern border, and not Reuben as would be expected. The name of the tribe of Reuben would then have been preserved simply to maintain the number twelve. But if this is the case, it removes the basis of the explanation of the omission of Levi in the first place.

On the other hand, the transfer of Gad to third place in the later system reveals a concern to preserve the number six of the Leah tribes which stand at the head of these lists.⁷ So one may conclude from the lists that there were two fixed groups of tribes, a group of six Leah tribes, and a total group of twelve tribes including also the Leah tribes.

As for the date of the lists, this can be determined on internal observation. Nu. 26⁸, which mentions the tribe of Manasseh, must be later than the Song of Deborah where Manasseh is still not an independent tribe. On the other hand, it must be earlier than 733 B.C. when Israel was first incorporated within the Assyrian provincial system. The further observation that in the list no Canaanite cities of the plains are mentioned while a few Canaanite cities of the mountains are referred to, would point to a time of origin of the list when Israel did have possession of some of the mountain cities but had not yet ventured on to the plains. So the list of Nu. 26 may be assigned to sometime in the second half of the period of the judges. Gen. 49⁹, on the other hand, probably belongs in its present form to the time of David or Solomon. But its present

7. The Leah tribes are to be identified in the first instance from the story of Gen. 29f.
8. Das System, pp. 126ff.
9. Das System, pp. 7f., 30.

form is ultimately the responsibility of a collector who has gathered together originally independent sayings. Furthermore, the present order of tribes in this list is not a pure invention on the part of this collector. It depends on a system of tribes which was familiar to him, a system which, Noth has argued, antedates the system presupposed in Nu. 26. So, while Gen. 49 in its present form dates from the time of David or Solomon, it goes back ultimately to the early period of the judges. Thus Noth has found in these lists evidence of a system of the Israelite tribes which existed in the period of the judges and which changed slightly in form during this period. It is this change in form which is reflected in the lists.

Proceeding from this basis, Noth has attempted to establish the particular historical framework with which such a tribal system may have been viable. It is at this point that use is made of information from classical sources on the so-called amphictyonies of Italy and especially those of Greece.¹⁰ There were a number of such amphictyonies, whose members usually numbered twelve¹¹, and among these it is the Greek

10. Das System, pp. 46ff.; cf. also W.W. Hallo, "A Sumerian Amphictyony", JCS XIV, 1960, pp. 88 ff.

11. An exception to this is the federation of the 'triginta populi Latini'. However, just as the number twelve of the amphictyonic members is based on the twelve months of the year, so the number thirty of the 'triginta populi Latini' may be based on the thirty days of the month, cf. Das System, pp. 52f.

amphictyony centred round the two sanctuaries of Demeter at Pylae and Apollo at Delphi which is taken as the pattern. This is simply because it is about this amphictyony that most information has been preserved. Of this amphictyony it seems that at first it had only one sanctuary, that of Demeter at Pylae. Later, however, the sanctuary of Apollo at Delphi also came under the protection of this amphictyony and in time, because of its fame as a place of oracle giving, surpassed the original amphictyonic sanctuary in significance. The amphictyony was composed of twelve tribes, a traditional organisation which was retained, while the city states included within the amphictyony were reckoned as representatives of particular tribes.

From the records handed down it can be seen that one of the chief tasks of the amphictyony was the care and maintenance of the central sanctuary. Here periodic festivals took place which were the occasion for a united gathering of the members of the amphictyony. However, the amphictyony was not founded for the purpose of looking after such a sanctuary. This is clear from the fact that in many cases it can be shown that a particular sanctuary had its own history before it became the central sanctuary of an amphictyony.¹² So the adoption of a central sanctuary presupposes an already existing alliance of the amphictyonic members.

12. This is the case especially with the sanctuary of Apollo at Delphi.

Local sanctuaries exercise a dividing rather than a uniting force, so that the adoption of a common sanctuary would be a practical necessity for an amphictyony which had been founded for other reasons. What the actual basis of the foundations of the amphictyony was cannot be said with certainty. Our present state of knowledge will only allow us to conclude that it must have been ^{common} mutual historical experience, perhaps together with the need for resistance against a common enemy, which brought the tribes together.

The association which was thus established was a loose one, within which internecine warfare was not unknown.¹³ However, the members of the amphictyony were under certain obligations: each member had to send a representative to the assemblies, and to contribute to the material upkeep, and to the defence in case of threatened violation, of the sanctuary. Few regulations governing the relations of the amphictyonic members themselves have been preserved¹⁴, but infringement of such regulations would lead to the declaration of war against the offending member by the rest of the amphictyony.

13. For an illuminating instance of the disunity of the amphictyony reference may be made to the time of the Persian war under Xerxes. On this occasion many Greek states were passively, and some actively (e.g. Thessaly), pro-Persia, while Xerxes at one time thought he could persuade the Athenians to come over to his side, cf. Herodotus VII, 130ff.

14. cf. Das System, p.57

This, then, is the organization, the Greek amphictyony, which Noth finds to be a valid parallel by which to elucidate the structure of the Israelite tribes in the pre-monarchy period. It is only ^{by} ~~be~~ presupposing the existence of such an amphictyony that the subsequent unity of the Israelite tribes under Saul can be explained, a unity which could not have been founded or preserved solely on the basis of the 'abstract concept' of Yahwism as the unifying factor.¹⁵

The Israelite twelve tribe amphictyony was founded at the entry of the 'House of Joseph' into the land.¹⁶ This was the group led by Joshua, and at its entry the Leah tribes, the so-called concubine tribes, and the tribe of Benjamin, were already settled in the land.

15. Das System, pp. 63f.

16. In saying that the Leah tribes were already settled in the land at the time of entry of the ~~House~~ of Joseph, Noth followed Steuernagel, Die Einwanderung der israelitischen Stämme in Kanaan, 1901, pp. 50ff. However, the view also expressed in Das System, p. 37 n.2 and p. 80, that Benjamin had also settled in the land, in the 15th century B.C., long before the entry of the House of Joseph, a date based on early excavations at Jericho, is not repeated in Noth's History, pp. 74f.; idem, Das Buch Josua, HAT (2nd edit.), Tübingen 1953, p. 12, where it is argued that, while Benjamin preceded the House of Joseph in its settlement in Palestine, it probably did not find Jericho an inhabited city.

It was the incursion of the House of Joseph under Joshua which probably led directly to the foundation of the twelve tribe amphictyony. This foundation was not such a startling innovation as might at first appear, for it seems that before this time there had already existed a six tribe amphictyony composed of the Leah group of tribes.¹⁷ Thus, the settlement of the House of Joseph brought about the extension of the old six tribe amphictyony into one consisting of twelve members. The appearance of the House of Joseph provided the occasion for the inclusion also of other tribes, outside the Leah group, within this amphictyony in order to make up the number twelve of the members.

The record of this foundation of the twelve tribe amphictyony is now to be found in Josh. 24.¹⁸ According to the original form of the tradition now enshrined here, Joshua, as leader of that group, the House of Joseph, which had already previously acknowledged Yahweh as their God at the covenant at Sinai, now confronted those tribes which had settled in Palestine relatively early and had never been in Egypt. The 'Landtag' or parliament of Shechem, reflected in Josh. 24, established the amphictyony and marked the end of the long process of the Israelite settlement in the land.

17. This conclusion is based on the observation that the Leah tribes were a fixed group of six tribes, as is shown by the concern to maintain the number six by the introduction of the tribe of Gad into this group after the omission of Levi, cf. above p.7 and Das System, pp. 75f.

18. This important chapter is dealt with below, pp. 167ff

As well as this, however, Josh. 24 also preserves the memory of the foundation of an institution, a common form of cultic worship by which the tribes acknowledged the lordship of Yahweh. This form of worship was the celebration of the covenant between Yahweh and Israel which was regularly renewed.¹⁹ Since the tradition localizes these events at Shechem it must also be understood that it was this sanctuary which remained as the central sanctuary of the Israelite amphictyony. It was this sanctuary which the amphictyonic members had the obligation to maintain, and it was thus for purely practical reasons that the amphictyony numbered twelve members - each member had the charge of the amphictyony for one month in the year.²⁰

So at Shechem, where the ark found its first home,²¹ the twelve tribes of Israel united in periodic covenant worship of 'Yahweh the God of Israel'.²²

19 Das System, pp. 72f

20 Das System, p. 86. With the earlier six tribe (Leah) amphictyony, each member would presumably have had the charge of the sanctuary for two months in the year.

21 Das System, p. 96. Apart from the late passage Josh. 8 30-35, the ark is nowhere in the Old Testament tradition explicitly stated to have been at Shechem, cf. further below, pp. 38ff.

22 Noth, Das System, pp. 93ff, follows Steuernagel in attributing the origin of this old formula to the sanctuary by Shechem, but he goes further than the latter in connecting the formula specifically with the ark and thus accounting for the later use of this formula in the Jerusalem sanctuary where the ark was deposited by Solomon.

Yahweh became the God of the amphictyony under the influence of the House of Joseph, an influence which may be accounted for not only by the strength of the House of Joseph but perhaps also by presettlement contact between it and the earlier six tribe amphictyony of the Leah tribes.²³ But besides being a place of regular covenant worship of Yahweh, it is also to be understood that the central sanctuary at Shechem was, as with the Greek amphictyonies, the meeting place of the tribal representatives²⁴ to debate matters of general concern.

A further point of comparison with the Greek amphictyonies is in the matter of law. Just as the Greek amphictyonies had their amphictyonic law regulating the common cult and probably also the mutual dealings and relations of members, so too in Israel. Parts of this amphictyonic law are now probably to be found in the Book of the Covenant,²⁵ though

23. Das System, pp. 89f

24. In Israel the tribal representative was the שׂוֹטֵף , corresponding to the Greek ἐρομνήμων ; a list of the twelve Israelite שׂוֹטֵף is preserved in Nu.1:5-15; cf. Das System, p. 97. On the relation between the ἐρομνήμονες and the πυλαγόροι in the Delphi-Pylae amphictyony, cf. Das System, p. 54, n.1.

25. Noth, Das System, p.98, thinks specifically of the religious and moral prohibitions of the form of EX.22:27 (EVV 28). Note that in this group the שׂוֹטֵף and the גֵּר who must be understood to be the Israelite living outside his own family, are mentioned.

it is likely that the Book of the Covenant as a whole took its origin within the framework of the amphictyony.²⁶ But besides this codified amphictyonic law, there also existed unwritten law²⁷, and it was for violation of this unwritten law that there took place the war of the tribes with the Benjaminite city of Gibeah, recounted in Judg. 19-21. This event is paralleled in Greek history, in the Amphissa war of 339 B.C., when the members of the amphictyony called on the Locrians to punish the inhabitants of the city of Amphissa, which lay in the province of the Locrians, for a cultic offence. Instead, as with Benjamin and the inhabitants of Gibeah, the Locrians declared themselves at one with the inhabitants of Amphissa, thus bringing about an amphictyonic war^{which} resulted in the exclusion of the Locrians from the amphictyony.

In presenting this argument for the existence of an amphictyony in pre-monarchic Israel, Noth thus disagrees with the view that the southern tribes of Judah and Simeon had no connection with the northern tribes until the time of the monarchy. However, Noth agrees that the southern tribes stood in a peculiar position. There were six of them in all,²⁸ dwelling on the mountains of Judah, and

26. On the Book of the Covenant cf. further below, pp. 326f

27. The νόμοι ἄγραφοι, cf. Das System, pp. 100 ff.; von Rad, Old Testament Theology, vol 1 (E.T. Edinburgh 1962), p. 264. The crime committed by the men of Gibeah is called זִנְיָהּ בְּזִנְיָהּ, which Noth takes as an example of the idiomatic speech of the amphictyony designating a violation of the unwritten, customary law.

28. Judah, Caleb, Othniel, Cain, Jerahmeel and Simeon.

the united appearance of these tribes in the elevation of David to the kingship at Hebron points to the possibility of there having existed a six tribe amphictyony in the south with Hebron as its central sanctuary. Thus Judah and Simeon would have belonged to two independent amphictyonies, the one consisting of six tribes with its centre at Hebron, and the other consisting of twelve tribes with its centre at Shechem. In this, however, the organization of the Israelite tribes is not unique, since the same thing is found in Greek history where, for example Athens belonged to three different tribal federations.

(b) Criticism of the Amphictyony Theory in its application to Israel.

It has been necessary to give this full account of Noth's basic work for the reason that the existence of the amphictyony in pre-monarchic Israel is assumed without argument in many scholarly writings today.²⁹ Thus it would seem worthwhile to look again at the evidence we have to see if it can bear the weight of the theory just outlined. It is clear, that the results of such an enquiry, if they are to show the Israelite amphictyony to be an ill-founded theory,

29. This is the case particularly with some works which are now used as standard text-books on Israelite history and religion, cf. the works of Albright, Bright, Wright and others, though these scholars do deviate in relatively minor points from the work of Noth; cf. below n.60.

will have considerable importance for the question of the origin of 'Israel'.³⁰ For if the unity of the twelve Israelite tribes is not to be found within the framework of an amphictyony of some kind in the period of the judges then one is forced to look to an earlier or to a later period to find such unity.

(i) The Tribal Lists

First of all, the conclusions drawn by Noth from his study of Gen. 49 and Nu. 26 are open to question. While it may be admitted that the lists show a concern to preserve two groups of tribes - one consisting of six tribes and the other of twelve tribes - it is by no means clear that the lists presuppose the historical existence in the pre-monarchy period of any systems of tribes corresponding to these lists. Such an assertion requires, firstly, that the lists themselves be shown to derive from or be based on prototypes or traditions which belong to this period, and, secondly, that such systems should correspond to historical data of this period which may be gleaned from other sources.³¹

30. And not only for the origin of Israel. For the validity of recent views, such as those of Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, FRLANT 54, Göttingen 1959, which sometimes strike one as an extreme form of protest against Wellhausenism of the past, depend to a large extent on the existence of an amphictyony in the period of the judges.

31. On the latter point more will be said below, cf. pp. 28ff

As far as Nu. 26 goes, it is generally held to be embedded in the P document, though it may be agreed that the priestly writer did not simply invent this list but based it on tradition older than himself. The only point linking the list, on the other hand, with the period of the judges is the absence of any reference to the cities of the plains, which at that time were still outside Israelite control, confined as it was then to the mountain districts.

However, it seems doubtful that anything more should be concluded from this than that at this particular point alone the list reflects historical circumstances of the pre-monarchy period; for in the prominence ascribed to Manasseh, both in its position in the list before Ephraim and in its superiority in numbers, the list also shows strong connection with later time³². Furthermore, in a list belonging to the time to which Noth would ascribe Nu. 26, one would expect much more information on Judah and its clans than is given here. So it would appear that there are strong objections to deriving this list in its essentials from the period of the judges, but that it should be dated to some indeterminable time during the monarchy, probably before the destruction of the northern kingdom. This does not, however, preclude the possibility that in one or two of its features the list does reflect conditions of the judges period, especially in the allocation to the

32. cf. S. Mowinckel, "'Rahelstämme' und 'Leastämme'", Von Ugarit nach Qumran, O. Eissfeldt Festschrift edit. J. Hempel, L. Rost, BZAW 77 (zweite unveränderte Auflage) 1961, pp. 140ff.; and cf. further p. 68.

tribes of those Canaanite towns which were situated in the mountain areas rather than in the plains.

With Gen 49 the difficulties are somewhat different. It is dealt with here in conjunction with the Blessing of Moses in Deut. 33 since both of these passages are of a similar type in that both are composed of sayings about the different tribes.³³ The sayings contained in these two passages were, as is generally acknowledged,³⁴ originally independent.

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- 33 On the framework of the poem in Deut. 33 (i.e. vv. 2-5, 26-29), cf. W. Schmidt, Königtum Gottes in Ugarit und Israel, BZAW 80, 1961, pp. 68f. Noth, Das System, pp. 21ff., has concluded that this Blessing of Moses, in which the saying about Reuben stands at the beginning because of the traditional seniority of that tribe whereas the sayings about the other tribes are ordered according to the position occupied by those tribes in the land, was composed in the 8th century B.C., by a collector to whom no saying about Simeon was available and whose choice and arrangement of the sayings was a quite subjective one. Thus, he takes Deut. 33 to be of no value in the question of a historical league of these tribes in the period of the Judges. Deut. 33 is not arranged according to a system handed down from that period.
- 34 cf. the detailed work of Zobel, op.cit.; and also K.D. Schunck, Benjamin. Untersuchungen zur Entstehung und Geschichte eines israelitischen Stammes. BZAW 86, 1963, pp. 13f. 71; Eissfeldt, The Old Testament An Introduction (E.T. Oxford 1965), p.228; idem, "Silo und Jerusalem", VT Suppl. 4, 1956, p.140; H.J. Stoebe, "Jakobsegen", RGK (3rd edit.) vol. 3, cols. 524f. However, Mowinckel, Le décalogue, Paris 1927, p.128 n.3; idem, Zur Frage nach dokumentarischen Quellen in Josua 13-19, ANVAO 2. Hist.-Filos. Klasse, 1946, p.37 n.21, denies this with regard to Deut. 33, which he takes to be a uniform, poetic product, a hymn of the autumnal and enthronement festival. But cf. Noth, Das System, p.8 n.1, p.22.

This is clear from a consideration of form, metre and content. This means, however, that the sayings of Gen. 49 and Deut. 33 did not necessarily originate at the same time but may come from different periods, and indeed it may well be that some sayings from Deut. 33 are older than those of Gen. 49.³⁵ This seems to be the case especially with the sayings about Judah in Deut. 33: 7 and Gen. 49: 10-12.³⁶

35 Indeed Zobel, op.cit., p.61, argues that Deut. 33 was compiled before Gen.49, since a deviation from the fixed twelve tribe system, such as we find it in Gen.49, is not conceivable in a later time. See also G.E. Wright, "Exegesis of Deuteronomy", IB vol. 2, p.528, who holds that "it is possible that while the poem reflects, and may have been first composed during, the eleventh century, its actual written form comes from the tenth century, during the period of great literary and scribal activity in the reigns of David and Solomon".

36 We here follow Zobel, op.cit., p.55, in seeing Gen. 49:9 as the original, basic form to which vv. 10-12 have been added later, while v.8 is a still later addition forming a superscription to the Judah saying and at the same time joining it with the preceding verses. However, we cannot follow Zobel in placing Gen. 49: 10-12 chronologically earlier than Deut. 33:7. The latter is a wish that Judah should have closer contact with his fellow tribes, which would suit well in the judges period, cf. E. König, Das Deuteronomium, 1917 pp. 220ff; Schunck, op.cit.; p.72 (E. Voegelin, Israel and Revelation, 1956, p.271, prefers to relate it to the reconciliation of Judah and Israel after the division of the kingdom, but this is probably too late, cf. R. Smend, "Gehörte Juda zum vorstaatlichen Israel", Fourth World Congress of Jewish Studies, vol.1 Jerusalem 1967, pp. 61f), while the former seems clearly to presuppose the monarchy, cf. Mowinckel, He That Cometh (E.T. Oxford 1956), p.13 and n.2. הַמֶּלֶךְ is most obscure, and is taken by some (for references, cf. J. Coppens, "La bénédiction de Jacob", VT Suppl. 4, 1956, pp. 112f) to correspond to the Accadian šelu, 'ruler'.

Note 36 - continued

But even if it does refer to Shiloh, we must not necessarily think of a time before the destruction of that place. The use may well be figurative here, considering the reputation which Shiloh must have enjoyed, and which is still attested in the time of Jeremiah (7:12). Lindblom, "The Political Background of the Shiloh Oracle", VT Suppl. 1, 1953, pp.78ff., puts the time of the Judah saying to the seven and a half years during which David was king of Judah in Hebron. He translates: "until he come to Shiloh", i.e. the kingdom now established will not be limited to Judah, but will extend also to the northern tribes, for which Shiloh as a venerable site in Ephraim is taken as representative; cf. also von Rad, Old Testament Theology, vol. 2 (E.T. Edinburgh, 1965), pp. 12f.; J.A. Emerton, "Some difficult Words in Genesis 49", Words and Meanings (Essays presented to D. Winton Thomas, edit. P.R. Ackroyd, B. Lindars), Cambridge 1968, pp. 86 ff.

On the other hand, the sayings about 'Joseph' in Gen. 49: 22-26 and Deut. 33: 13-7 present special problems. Both are unusually long and may well be extensions of basic sayings or they may be composed of separate sayings which have been joined together subsequently. Thus, in Gen. 49, verses 25-26 appear to have been joined later to the preceding three verses by using the connecting word וְאֵלֶּיךָ in v. 25aa.³⁷ Also, in v.22, in the word וְיִשְׂרָאֵל there is probably a play on the name וְיִשְׂרָאֵל , which would mean that these three verses concerned Ephraim originally and not 'Joseph'.³⁸

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- 37 Note that וְאֵלֶּיךָ (and the inseparable form אֵלֶיךָ) is missing in v.25ab, where וְאֵלֶיךָ should probably be read for וְאֵלֶיךָ . In vv. 25-26 Joseph is addressed directly and also the name 'Joseph' appears, which points to vv. 22-24 and 25-26 having been separate originally, cf. Zobel, op.cit., p.24.
- 38 This is supported by the popular etymology given for the name 'Ephraim' in Gen. 41:52. However, Zobel, op. cit., p.22, seems to me to be too critical in separating v.22 from vv.23f. The carrying on of the thought of v.22 in vv. 23f is as strong an argument for their original 'Zusammengehörigkeit' as for vv. 23f. being a subsequent extension of v.22. These verses may refer to the event described in Judg. 20 (cf. Additional Note below, p.123), though, of course, this cannot be certain. For a suggested solution of some of the difficulties in the text of Gen. 49: 22, cf. J.M. Allegro, "A Possible Mesopotamian Background to the Joseph Blessing of Gen. xlix", *ZAW* NF 23, 1952, pp. 249ff., who, by pointing to the parallelism between וְיִשְׂרָאֵל and וְיִשְׂרָאֵל in Is. 44:4, and by connecting the root לִשְׂרָאֵל with the Arabic *su'adā*, gives the translation: "a Euphratean poplar is Joseph, a Euphratean poplar by a spring, a daughter-of-sighing in a garden" (cf. also Emerton, op.cit., pp. 91ff). Even if this proposal is to be accepted, the ambiguities still existing (indeed perhaps intended) in the text, no doubt result from the wish to coin a saying making some play on the name Ephraim.

In Deut. 33 the case is probably similar in that v.17a is the original saying referring to Ephraim, to which vv. 13-16 have been attached later, while v.17b is a still later addition, perhaps by the compiler responsible for the superscriptions to the individual sayings.³⁹ Thus we understand that the application of these sayings to 'Joseph' is not original,⁴⁰ but came into use in the time

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39. cf. Zobel, op.cit., p.37. The relative chronology of Gen.49:25-26 and Deut.33:13-16 cannot be determined with certainty, though perhaps the changes in vocabulary (e.g. the normal *Joseph* in Gen.49:26 instead of the more unusual *Yisrahel* in Deut.33:16) indicate the earlier age of the latter. Mowinckel, of course, denies that even v.17b is later, in conformity with his view of Deut. 33 as a uniform poetic product.
40. That the expression 'House of Joseph' was first current in the early monarchy period has been shown by E. Täubler, Biblische Studien. Die Epoche der Richter (herausg. von H.-J.Zobel), Tübingen 1958, pp. 176-203, who is followed by O.Kaiser, "Stammesgeschichtliche Hintergründe der Josephsgeschichte. Erwägungen zur Vor- und Frühgeschichte Israels", VT 10, 1960, pp.8ff., (cf. also E. Nielsen, Shechem, A Traditio-Historical Investigation, Copenhagen 1955, pp. 126ff.; G.A. Danell, Studies in the Name Israel in the Old Testament, Uppsala 1946, p.42, who suggests that Joseph was originally the cult hero of Shechem and his name was taken over by the invaders after their settlement. But for the view that one must think of a division of Joseph into Ephraim and Manasseh, rather than a connection of Ephraim and Manasseh to form Joseph, cf. Noth, Das System, pp.80f.; idem, History, p.90). The Song of Deborah indicates the independent existence of Ephraim and Machir, while there is no sign of Manasseh. The relation between these three is somewhat difficult to understand. Except for the doubtful case of Judg.5:14, Machir is generally presupposed as occupying the east Jordan district of Gilead (cf.Nu.32:39-40; Deut.3:15; Josh.17:1). However, as Gilead is also

Note 40 - continued

mentioned independently in the Song of Deborah, it seems best to understand Machir as living in west Jordan at this time (this is not necessarily to be determined by the order of tribes in the Song of Deborah since it is difficult to perceive here any geographical system, cf. Zobel, op.cit., p.92 and n.134, though it is apparently just such a method that Zobel, op.cit., p. 113, uses to fix the territory of Machir). It thus seems that we must understand that sometime after the Deborah battle, perhaps as a result of Philistine expansion, there was pressure from Ephraim towards the north, resulting in a migration of a large part of Machir to east Jordan where they settled in Gilead. Those left behind bore the name Manasseh (which is a personal name perhaps derived from the name of an ancestor, cf. Noth, Die israelitischen Personennamen im Rahmen der gemeinsemitischen Namengebung, BWANT III, 10, 1928, p.64), and, since they lived in west Jordan, they eventually came to be of such significance that their name also came to be used to designate Machir. Thus we can see how Machir is called the 'son' of Manasseh, and 'father' of Gilead, cf. Noth, Das System, p.36

of the early monarchy.⁴¹

The saying on Benjamin in Gen.49:27 is best applied to the time of Saul,⁴² while those on Simeon and Levi in Gen. 49:5-7⁴³ and on Levi alone in Deut.33:8-11 are better understood as coming from the judges period.⁴⁴

41. cf. however, J.A. Emerton, Review of Zobel, *Stammesspruch und Geschichte*, JTS XIX, 1968, p.246, who, while accepting that in Gen.49:22 there is a play on the name Ephraim, argues that it does not follow that the saying must be textually emended to replace Joseph with Ephraim.
42. If the saying is to understood as showing Benjamin striving after leadership, it seems to be best taken as originating at this later period, rather than in the early judges time as understood by Zobel, *op.cit.*, pp.107f; cf. Schunck, *op.cit.*, pp.74f. If the superscriptions of Deut.33 come from the collector of the sayings, then Deut.33:12 may well have belonged to the following verses originally, cf. Schunck, *op.cit.*, p.71. The fact that Benjamin is not mentioned in the saying apart from the superscription would favour this.
43. Gen.49:5-7 presupposes Simeon's and Levi's loss of tribal status. The saying probably refers to the incident in Gen.34, though it is not necessary to conclude from that that the scattering of Levi and Simeon was a direct result of that incident. Indeed Gen. 35:5 presupposes a peaceful departure southwards from Shechem.
44. Both sayings on Levi may easily come from the same time although one is a curse and the other a blessing. The type of saying would depend on the point of view of the composer, and that Levi had enemies is evident from Deut.33:11b. On these sayings cf. also S. Lehming, "Zur Überlieferungsgeschichte von Gen.34", ZAW 70, 1958, pp.228-250; idem, "Massa und Meriba", ZAW 73, 1961, pp. 71-77.

From the judges period the saying on Zebulun (and Issachar) in Deut. 33:18-19 also probably derives.⁴⁵

So it is apparent from our brief survey of only a few of the tribal sayings and blessings grouped together in Gen.49 and Deut.33 that they did not all originate in the same time, that some of them, like so much other material in the Old Testament, have undergone a process of expansion, and that they were finally collected and arranged by a compiler, probably in the early period of the monarchy. That the compiler in each case had the ideal before him of preserving the number twelve of the tribes of Israel is obvious from both collections: in Gen.49 where 'Joseph' is taken as a collective designation of the two tribes Ephraim and Manasseh; and in Deut. 33 where, since Simeon is missing, it seems that Joseph, Ephraim and Manasseh are counted as three tribes. However, to conclude from this ideal that the collections presuppose the actual, independent existence of twelve tribes of Israel in the judges period united in an amphictyony cannot be justified.

And in fact, Noth himself argues that there is justification for the view that not all twelve Israelite tribes enjoyed contemporaneous, independent existence in the pre-monarchy period.⁴⁶

45. cf. below n.160

46. Noth, Das System, pp.40, 77ff, 89; idem, History, pp.64, 69ff, 76.

This is especially the case with the tribes of Reuben, Simeon and Levi, while it seems that Dan, even if it remained independent, was of little significance.⁴⁷ Also, the tribe of Benjamin apparently only came into independent existence sometime after the settlement of Ephraim in the land.⁴⁸ With Reuben, Simeon and Levi, however, the indications are clear. These three tribes stand at the head of the tribal lists as the first three sons of Leah. From this alone it is legitimate to conclude that they must have been tribes of some importance, indeed that they must have been the leading tribes. Yet, on the other hand, for the period of which we are better informed historically these tribes play no significant role. They are assigned no territory in the original border lists along with the other tribes.⁴⁹ Although Reuben is named in the Song of Deborah (Judg. 5:15f), it must be concluded from other references⁵⁰ that all that remained of this tribe was a few families, some perhaps absorbed into the tribe of Judah though claiming to be Reubenite, while other elements may have settled in Transjordan.

47. cf. Judg. 13:2; 18:2,11, where is no longer a 𐤅𐤓𐤕 but a 𐤏𐤓𐤕𐤕𐤓.

48. On this point cf. further Additional Note below pp. 120ff.

49. cf. Noth, The Old Testament World (E.T. London 1966), pp. 68f.

50. cf. especially Nu. 26:6 with Josh. 7:1,18; and the work of Noth mentioned in the preceding note, and idem, History, pp. 63ff. Where these remnants of Reuben were living at this time is not very clear. Zobel, op. cit., p.50, argues that v.16a of the Song of Deborah is based on an old tribal saying which may have read "Reuben has settled among the sheepfolds", taking 𐤏𐤓𐤕𐤕𐤓 as denoting the sheepfolds of Transjordan, and 𐤏𐤓 as a terminus technicus for the settling of a tribe.

For the tribes of Simeon and Levi there is the notable tradition in Gen.34, according to which these two tribes participated in an attack on Shechem. This would justify the assumption that two tribes of these names were living at one time in the mid-Palestinian region. Yet in the tribal border descriptions Simeon is simply a part of Judah, which conforms well with the place which this tribe occupies in relation to Judah in Judg.1⁵¹, while of Levi it is expressly stated (Josh.13:14) that it was assigned no territorial possession. Thus Reuben, Simeon and Levi cannot be considered as independent tribes on an equal footing with the others - a state of affairs which is reflected also in the 'Blessing' of Jacob where the curses allotted to these tribes presupposes that they had lost their tribal status.⁵²

Thus it might be concluded that the position which Reuben, Simeon and Levi occupy at the head of the tribal lists is to be explained by the fact that in an early time for which we have no exact historical information, these were significant, independent tribes living in Palestine, but that subsequently, at the latest by the time of entry of the 'House of Joseph', they declined in strength to the extent that the areas of the land occupied by them were

51. cf. Noth, History, p. 58

52. Gen. 49: 3-7, and cf. above n.43

taken over by the tribes later entering the land.⁵³

Now, if the foregoing is accurate it would seriously weaken the case for the existence of an amphictyony in pre-monarchic Israel, especially if it is the numerical aspect of the comparison between the Greek and Hebrew tribal organisations, i.e. their common use of the number twelve, or multiples of it, as the basis of their organisation, which is taken to be the essential factor.⁵⁴ However, according to Noth⁵⁵, this is not the case.

53. We do not wish here to prejudice the question of the connection, if any, between the Levi of Gen. 34 and the later priestly tribe of Levi. As yet no completely satisfactory solution to this problem has been offered, but for some relevant comments, cf. Noth, Das System, p. 25 and n. 3; and A.H.J. Gunneweg, Leviten und Priester, FRLANT 89, Göttingen 1965, pp. 52ff. It would seem to result from these considerations that Noth's view of the existence of an early league of six tribes consisting of the Leah tribes has much to support it (so against Mowinckel, "'Rahelstämme' und 'Leastämme'", pp. 135f), cf. Das System, pp. 37f, 75-80, 92ff; M. Newman, The People of the Covenant, London 1965, pp. 78ff., and the references there given. Unfortunately, due to the nature of the case, very little of a positive nature can be said of the character of this league.

54. So R. Smend, Jahwekrieg und Stämmebund. Erwägungen zur ältesten Geschichte Israels, FRLANT Göttingen 1963, p. 12

55. Das System, pp. 40f.

What he says in effect is that the schematic nature of the twelve tribe system does not disprove the general historicity of the twelve tribe system as an actual institution. The reasoning behind this statement, in so far as I understand it, is as follows. One must first of all consider that often enough in the course of history man has made use of a historical situation as the raw material on which to erect institutions and organizations. A clear example of this is the division of the kingdom by Solomon into twelve administrative districts, a division which was made for purely practical reasons. Nobody doubts the historical reality of this division, even though the dis-trusted number twelve is basic to it, for the reason that we are well informed about the aims for which the institution was established. This means that the fictional nature of the twelve tribe system cannot be proved simply by reference to its schematic nature. One must first of all show that the presence of a particular institution as the basis of the system is historically impossible.

Now, as far as the last part of this argument is concerned it should immediately be remarked that the existence of an amphictyony in pre-monarchic Israel has to be proved, not disproved. But, apart from this, the rest of the argument arouses serious misgivings. It is perfectly true that institutions and organizations are erected on raw material and also that Solomon's division of the kingdom is a good example of this. But that the latter is a good analogy for the situation in the period of the judges is

highly questionable. Solomon's twelve districts were not named after, nor did their territorial extent coincide with the areas occupied by, the tribes. Furthermore, Solomon's division of the kingdom presupposed the existence of a people Israel with a centralized authority. On the other hand, according to Noth's theory, the people Israel originated on the soil of Palestine on the basis of the amphictyonic connection of the tribes. If the analogy with Solomon's division of the kingdom were to hold good, one would have to understand that this people called Israel already existed before the setting up of the amphictyony. For only by such an understanding would it be possible to explain how an institution with twelve members, all of which had practical duties, could be erected on raw material consisting of nine tribes. Also in this hypothetical case the divisions would have to disregard in some measure the individual units represented by the individual tribes. That is, Noth's analogy, and therewith his explaining away of the objections to the existence of an Israelite amphictyony consisting of twelve active members, presupposes the existence of the people Israel with a centralized authority which was chronologically prior to the amphictyony.

However, the above argument against Noth has its final validity only if it is true that the members of an amphictyony had to be twelve or a multiple of that number. But it should be recognized that the numbers six and twelve are not the only basis of federations within the Old Testament itself as well as in Greece and Italy.

56. cf. B.D. Rahtjⁱⁿ, "Philistine and Hebrew Amphictyonies", JNES XXIV, 1965, pp. 100-104. Rahtjⁱⁿ's attempt to show that there is more justification for speaking of a Philistine rather than a Hebrew amphictyony, an attempt which has its origin in the unified action of the Philistines in battle, is not very successful, due mainly to our lack of information about the Philistines. Although the five city-states probably acted together in face of common peril (1 Sam.29:2), we have no evidence from them of a regular festival at a common central sanctuary. Rahtjⁱⁿ's work is valuable, however, for his references to classical sources. See also H.E. Kassis, "Gath and the Structure of 'Philistine' Society", JBL 84, 1965, pp.259-270, who suggests that Achish 'king' of Gath was really a Canaanite vassal of the Philistines, and that David established a suzerainty treaty with Achish after freeing his city from Philistine overlordship and restoring it to the position of an independent city-state. David, as a result, had six hundred men of Gath in his bodyguard (2 Sam.15:18). On the Philistines, cf.also Alt, "The Formation of the ~~Q~~sraelite State in Palestine", Essays on Old Testament History and Religion, Oxford 1966, pp. 173ff.

57. cf. the work of Rahtjin mentioned in the preceding note.

members (Strabo IV, 842), while the Lykian league was made up of twenty-three cities. In Thucydides IV, 91, reference is made to eleven Boeotarchs who appear to have been the civil and military leaders of the cities and the league.⁵⁸

Thus it seems that no definite conclusions on the organization of the Israelite tribes can be drawn simply from the number of them. In order to show the existence or otherwise of an amphictyony in Israel the other evidence must be examined.

(ii) The Central Sanctuary

One of the most significant features of the amphictyonies as these functioned especially in Greece was the central sanctuary, the sanctuary which the individual members of the amphictyony were called upon to support and where matters of common concern were discussed. For this purpose each amphictyonic member had its representative, and in Israel, according to the theory, the word קָהָן was the title of this representative.⁵⁹

58. Some scholars in fact discount altogether the significance of the numbers six and twelve in connection with the amphictyony, cf. Orlinsky, op.cit., p.376 n.1. According to Eissfeldt, "The Hebrew Kingdom", CAH (revised edit.), vol. 2, ch. 34, 1965, p.17, this was simply a conventional numbering of the Israelite tribes which in reality were sometimes less and sometimes more than twelve. In support of Eissfeldt cf. next chapter, below, p.178, cf. also E.Meyer, Die Israeliten und ihre Nachbarstämme (1967 Darmstadt reprint of first edit. 1906), pp. 233f.

59. cf. Noth, Das System, pp.97f, 151ff; idem, History, p.98

Also, according to the theory, there took place at the Israelite central sanctuary a common cultic worship in the form of regular festivals at which the covenant between Israel and its God Yahweh was periodically renewed. This common cult was the concrete expression of the allegiance of all the tribes to Yahweh. Also at the central sanctuary Israel's most important cult object, the ark, was deposited. The first place which Israel had as central sanctuary was Shechem, but later, it may be conjectured according to the movements of the ark, this position was occupied by Bethel, Gilgal and finally Shiloh where the ark was at the end of the period of the judges.⁶⁰

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60. cf. Noth, History, pp. 94f. At this point we find some difference of opinion among scholars who otherwise accept Noth's theory of the amphictyony. Albright, Archaeology and the Religion of Israel, Baltimore 1942, p.103; idem, From the Stone Age to Christianity (Anchor edit. 1957), pp. 281f., argues that Shiloh alone was the central sanctuary, in view of such passages as Josh. 18:1. This is followed by Wright, Shechem, The Biography of a Biblical City, London 1965, pp. 140f; Bright, A History of Israel, London 1960, pp. 146f; Nielsen, Shechem. A Tradition-Historical Investigation, p. 36 n.1; M.H. Woudstra, The Ark of the Covenant from Conquest to Kingship, Philadelphia 1965, pp. 127ff. However, cf. Mowinckel, Tetrateuch-Pentateuch-Hexateuch. Die Berichte über die Landnahme in der drei altisraelitischen Geschichtswerken, BZAW 90, 1964, p.74, who argues that Shiloh was substituted for Shechem in the late (P) source to which Josh. 18:1 belongs, because at the time of composition of this source Shechem was the Samaritan centre and so could not be given the honour of having been the sanctuary of the good old days.

Thus, for the Israelite amphictyony theory, in order for a sanctuary to qualify as the central sanctuary there are three requirements to be met; the acknowledgement of that sanctuary by all twelve tribes; the presence there of the ark; and the celebration there of the covenant festival.⁶¹

However, when these criteria are applied to the records connected with the various sanctuaries put forward as candidates for the position of central sanctuary, it becomes apparent that none of them can with any degree of certainty claim this distinction. For Shechem our most important source is Josh.24⁶². Here there is clear and definite evidence of a covenant ceremony practised at Shechem, but as for the numbers involved, besides Joshua and his house (v.15), there is no reliable indication.⁶³

61. On what follows, cf. especially W.H. Irwin, "Le sanctuaire central israélite avant l'établissement de la monarchie", RB 2, 1965, pp. 161-184. Smend, Jahwekrieg, pp. 56ff, however, while accepting the theory of a central sanctuary, argues that the ark need not have been there.

62. This passage is examined in detail in the next chapter.

63. That we are justified in distrusting vague and general references to 'all Israel' and 'all the tribes of Israel' etc., is immediately clear when it is said in Judg. 20;1f that 'all the people of Israel', 'the chiefs of all the people, of all the tribes of Israel' gathered at Mizpah to decide how to deal with the tribe of Benjamin. The latter was clearly not present at this gathering.

Since the scene is set in Manassite (or Machirite) territory it is quite probable that Machir was the only non-Ephraimite group present.⁶⁴ In addition, the absence of any trustworthy reference to the presence of the ark at Shechem is a further indication that it would be unwise to claim Shechem as an amphictyonic central sanctuary for Israel.⁶⁵

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- 64 cf. C. Steuernagel, "Jahwe und die Vätergötter", Festschrift Georg Beer, Stuttgart 1935, pp. 3ff; Nielsen, op.cit., p.139. Schunck, op.cit., p.48 n. 174, follows Auerbach in arguing that we are not dealing here with a historical source. The basic tradition perhaps had nothing to do with 'Israel' or Shechem (though, cf. now Schunck, "Die Richter Israels und ihr Amt", VT Suppl. XV 1966, p.256 n.4. where he thinks that Josh. 24 is the record of a historical event which, however, probably took place at Shiloh or Bethel); cf. also Rowley, From Joseph to Joshua (Schweich Lectures 1948), London 1950, pp. 125f., who denies that Shechem can be considered an amphictyonic centre. Irwin, op.cit., p.171, goes so far as to doubt if Josh. 24 is historical in involving all the tribes.
- 65 For the suggestion that וְיָשָׁב יְהוָה בְּשֶׁכֶם (which occurs in Josh. 24:1) in the Psalter implies the presence of the ark, cf. G. Henton Davies, "The Ark in the Psalms", Promise and Fulfilment (S.H. Hooke Festschrift, edit. F.F. Bruce), Edinburgh 1963, p.61. But this is certainly not a necessary interpretation of the phrase here; cf. Nielsen, op.cit., p.301 "if the ark in some period or other was present in Shechem, it would be quite impossible to explain why it is commemorated neither in Josh. 24 nor in Deut. 27"; cf. also Smend, Jahwekrieg, p.66 n.61. The ark is placed at Shechem according to Josh. 8: 30-35 but this passage is manifestly secondary in its present connection. Apart from this point views on the passage differ considerably. H.W. Hertzberg, Die Bücher Josua, Richter, Ruth, ATD 9, Göttingen 1959, p.63, considers this to be a

Note 65 - continued

deuteronomic passage which has replaced an earlier Bethel tradition, while J.L'Hour, "L'alliance de Sichem", RB LXIX, 1962, pp. 179ff., holds that the author of this section is later than the deuteronomists. But for a somewhat different view of the passage, cf. J.A. Soggin, "Zwei umstrittene Stellen aus dem Überlieferungskreis um Schechem", ZAW 73, 1961, p.84. Noth's view of the passage does not appear to be completely consistent. In Überlieferungsgeschichtliche Studien, 2nd edit. Tübingen 1957, p.43, the passage is taken as being wholly deuteronomistic with no older source, while in Das Buch Josua, pp. 51ff., the view is that since the passage deals with an altar outside Jerusalem there are fragments here of a pre-deuteronomistic historical tradition which, however, is only to be found in a deuteronomistic context. The deuteronomist inserted the passage here when, in his view, the way to Shechem lay open through the conquest of Ai, in order to tell of the fulfilment of the divine commands of Deut. 27:1ff; 31:9ff., and to have this fulfilment take place at the earliest opportunity. In spite of von Rad, "The Form-Critical Problem of the Hexateuch", The Problem of the Hexateuch and Other Essays (E.T. Edinburgh 1966), p. 38, who holds that both Josh. 24 and Josh. 8: 30-35 go back ultimately to the same covenant ceremony at Shechem, and Newman, op.cit., p.113 n. 31, who thinks the reference to the ark at Shechem is authentic, we would take it that Josh. 8:30-35 is a deuteronomistic passage, and that the ark may have been introduced under the influence of the preceding chapters, cf. Irwin, op. cit., p. 171; Noth, History, p. 93 n.1; and further Nielsen, op.cit., pp. 77ff. Kraus, "Gilgal: ein Beitrag zur Kultusgeschichte Israels", VT 1, 1951, p. 193 (cf. also idem, Worship in Israel, E.T. Oxford 1966, pp. 144f), recognizes a difficulty in accepting the presence of the ark at Shechem. The only solution he can offer is that Gilgal replaced Shechem as central sanctuary at a very early stage, and he sees a hint of this change in Deut. 11:25-30. But this passage is much

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too obscure to bear that interpretation, and the words לְהַקְדִּישׁ (v.30) are most likely an addition, cf. Noth, Das System, p. 146; Nielsen, op.cit., pp. 42f. In view of all this we cannot of course follow the interpretation of Gen. 35: 1-5 as reflecting the transfer of the ark from Shechem to Bethel. A possible alternative is that it refers to the elevation of Bethel to the position of a royal sanctuary in the time of Jeroboam I, cf. Smend, Jahwekrieg, p.68.

On the other hand, there is reliable evidence of the presence of the ark at Gilgal. According to Josh. 3-4 it was at this sanctuary that the ark found its first lodging after the crossing of the Jordan.⁶⁶ However, apart from this, it cannot certainly be demonstrated either that Gilgal was a sanctuary where the covenant festival was observed, or that it was a sanctuary acknowledged and visited by all twelve tribes or their representatives. The fact that it was at Gilgal that the people were circumcised (Josh. 5:2-9)⁶⁷, and that it was here also that a covenant was made with the Gibeonites (Josh. 9: 1-15) demonstrates in the one case simply the practice of the ritual means of admittance into the Israelite community, and in the other case a knowledge of,

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66. It has been argued by K. Möhlenbrink, "Die Landnahmesagen des Buches Josua", ZAW 56, 1938, p.248; and C.A. Keller, "Über einige alttestamentliche Heiligtumslegenden", ZAW 68, 1956, p.91, that basic to the story of Josh. 3f there is a version which knows nothing of the ark. It may certainly be true that the story does ultimately go back to old elements originally unconnected with the present context of the narrative, but it seems to me that the present form of the story, in which the ark plays a significant part, presupposes that at one time the ark had been at Gilgal. For an account of the origin and growth of the tradition of Josh. 3f., in which six stages of tradition history are found, cf. J. Maier, Das altisraelitische Ladeheiligtum, BZAW 93 1965, pp. 21ff.
67. In this passage v.9 may point to an aetiological element in the story, cf. Mowinkel, Tetrateuch-Pentateuch-Hexateuch p.36; but this aetiological factor is probably secondary cf. Bright, Early Israel in Recent History Writing. (SBT 19), London 1956, p.97.

and the ability to use, the idea of the treaty as this was commonly employed between peoples. This is not evidence of the celebration at Gilgal of the covenant between Yahweh and Israel. Nor does the fact that it was at Bochim that the angel of the Lord accused the people of breach of covenant (Judg.2:1-5) imply the celebration of the covenant festival at Gilgal in spite of the enigmatic note to the effect that "the angel of the Lord went up from Gilgal to Bochim" (Judg.2:1).⁶⁸ Also, there are some valid objections to seeing Gilgal as the sanctuary of the twelve tribes. The only support for this view is the tradition in

68. So against Irwin, op.cit., pp. 172f. Furthermore, it does not seem to me to be sufficient to follow von Rad, "The Form-Critical Problem of the Hexateuch", pp.41ff., as does Irwin, in tracing the tradition of the settlement in the land, which was contained in the cultic credo, back to the sanctuary at Gilgal, and then to argue that since the credo was the historical prologue of the covenant form then the covenant was celebrated at Gilgal. This theory has many weak links, and the very basis of it, i.e. that the credo belonged to the sanctuary at Gilgal, is by no means certain, cf. Noth, Überlieferungsgeschichte des Pentateuch, Stuttgart 1948, pp. 55 and n. 170. Also, it is not immediately clear that the covenant language of 1 Sam. 12 (cf. J. Muilenburg, "The Form and Structure of the Covenantal Formulations", VT 9, 1959, pp. 360f) constitutes any evidence against the deuteronomistic character of the chapter, as Weiser argues, Samuel. Seine geschichtliche Aufgabe und religiöse Bedeutung, FRLANT 81, Göttingen 1962, pp. 82ff; cf. Noth, Überlieferungsgeschichtliche Studien, p.5 n.2. This chapter can therefore not be used to show Gilgal as a place of covenant celebration, as proposed by E.W. Nicholson, Deuteronomy and Tradition, Oxford 1967, p.62.

Josh. 4 of Joshua's choosing twelve men, one from each tribe, to take twelve stones from the middle of the Jordan and to set them up in the "place where they lodged".⁶⁹

However, that part of Josh. 3-4 dealing with the twelve men of Israel is in fact confined to Ch.4 which, from a literary point of view, is wholly distinct from the preceding chapter.⁷⁰

69. The fact that it was at Gilgal that Saul was elected later to the kingship does not necessarily mean that Gilgal was an amphictyonic shrine acknowledged by all twelve tribes. Most of the rest of the land was in Philistine control at the time, and, furthermore, Saul belonged to the tribe of Benjamin in the territory of which Gilgal lay, cf. H.Wildberger, Jahwes Eigentumsvolk, ATANT, Zürich 1960, pp. 65ff. However, because of the twelve stones element in the story of Josh. 3f., Wildberger does think that Gilgal, while not an amphictyonic centre, yet had significance for all Israel. The elevation of one sanctuary to be the central sanctuary of the amphictyony does not, he argues, necessarily mean the decline in importance of other sanctuaries since, by the joining together of a number of tribes, hitherto local sanctuaries could gain a significance extending beyond the borders of the tribes to which they belonged. However, as will be pointed out below, the twelve stones element of the story hardly has the significance which Wildberger attaches to it.

70. Kraus, "Gilgal", p.185, argues that the twelve men and the twelve stones are an integral part of the narrative of the crossing of the Jordan, which he regards as the description of a regularly repeated cultic act, cf. also Wildberger, op.cit., pp.56ff, 59ff. The cultic interpretation suits well for ch.3 (though cf. Noth, Josua, p.33), but ch.4 is of a totally different genre. For an evaluation of Kraus's view of Josh. 3-6, cf. Soggin, "Gilgal, Passah und Landnahme. Eine neue Untersuchung des kultischen Zusammenhangs des Kap. iii-vi des Josuabuches", VT Suppl. XV, 1966, pp. 263-277.

distinct }
+ different }

In the latter there is a more or less uniform narrative relating a particular event, while in the former there are two aetiological tales, one dealing with the erection of twelve stones at Gilgal and the other with twelve stones set up in the midst of Jordan.⁷¹ The account presupposes simply the existence of these stones and the present connection with the twelve tribes of Israel is probably secondary.⁷² Thus, in view of the fact that there is no reliable evidence that the covenant between Yahweh and Israel was celebrated at Gilgal, nor that the sanctuary was regarded as a central sanctuary by all twelve tribes, it should not be understood, in spite of the presence there of the ark, that Gilgal was an amphictyonic shrine in the pre-monarchy period.

According to Judg. 20:27b the ark was also at Bethel, and a concealed reference to the transfer from Gilgal has been seen in Judg. 2:1a,5b.⁷³

71. cf. Noth, Josua, pp. 33,37ff.

72. cf. especially how these aetiological tales are connected with the narrative of ch. 3 by the insertion of v.12 in that chapter, a verse which has no connection with what precedes or with what follows in that chapter. The present connection of the twelve stones, whose significance was probably originally connected with astral phenomena, cf. J. Maier, *op.cit.*, p.24, n.159, with the twelve tribes of Israel can clearly then give no great support to the view that Gilgal was a central sanctuary of the twelve tribes.

73. For references, cf. Zobel, *op.cit.*, p.109; and Danell, *op.cit.*, p.68 and n.60 for the identification of Bochim with Bethel. The reason for this transfer from Gilgal to Bethel may have been the threat of invasion from the east, such as is related of the Moabites in Judg. 3:12-20, as Irwin, *op.cit.*, p.175, suggests.

However, on the other hand, there is no indication of the celebration of the covenant festival at Bethel, nor of the acknowledgement of that sanctuary by all the Israelite tribes. So all that can be conjectured for Bethel in the pre-monarchy period is that the ark may have been there, which tells us really very little about the status of that sanctuary among the others.⁷⁴

The importance of Shiloh as an amphictyonic central sanctuary has been stressed by many scholars,⁷⁵ though its 'all-Israel' significance is difficult to establish. The ark was brought there, perhaps towards the end of the 12th cent. B.C. on account of the incident recorded in Judg. 19-21,⁷⁶ and was lodged in a temple there until its capture and the destruction of Shiloh by the Philistines

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74. cf. Newman, *op.cit.*, p.60 n.32, and R.E. Clements, Prophecy and Covenant (SBT 43), London 1965, p.91, who suggest that the connection of the ark with Bethel in the early period may in fact derive from the time of Bethel's elevation to the position of a royal sanctuary during the reign of Jeroboam I.
75. cf. above n.60, and Möhlenbrink, *op.cit.*, pp. 250ff.
76. cf. Eissfeldt, "Der geschichtliche Hintergrund der Erzählung von Gibeas Schandtat (Richter 19-21)", Festschrift Georg Beer, p.23; Schunck, Benjamin, pp. 46f; Zobel, *op.cit.*, p.117. On the date cf. further below n.149.

c.1050 B.C.⁷⁷ However, there is no record of any covenant ceremony there, and the vintage festival presupposed in Judg. 21:19-21, and probably also in 1 Sam. 1: 1-18,⁷⁸ is best understood as having been a purely local affair.⁷⁹ Nor can the late passages in Josh. 18:1; 21:2 be relied on for exalting Shiloh to the rank of central amphictyonic sanctuary.⁸⁰ Although the ark was of prime importance, and

77. cf. Albright, Archaeology and the Religion of Israel, p. 104. The destruction of Shiloh is not recorded in the historical books of the Old Testament, but it is presupposed in Jer. 7:12. Evidence of its downfall has been unearthed by the Danish excavations there (the modern Seilun) in 1926, cf. H. Kjaer, "The Danish Excavation of Shiloh", PEQ 59, 1927, pp. 202-213. It is most likely that this destruction is to be attributed to the Philistines at the time of the capture of the ark (1 Sam. 4).
78. Eli's rebuke of Hannah in v. 14 would fit in best with such a festival, for which cf. Kraus, Worship in Israel, pp. 174f.; however, cf. also the article by Haran referred to in next note.
79. cf. Irwin, op.cit., p.176. So against Bright, History, p.149; Newman, op.cit., p.123; Nicholson, op.cit., p.61. cf. also M. Haran, "Zebah Hayyamim", VT 19, 1969, pp.11-22, who sees the event of 1 Sam. 1 as an annual family festival.
80. cf. Smend, Jahwekrieg und Stämmebund, p.70.

probably formed the object of pilgrimage,⁸¹ it cannot be demonstrated that its influence, and that of the sanctuaries where it was deposited, extended outside the borders of Ephraim and Benjamin during the pre-monarchy period.

So our examination of the evidence which has been put forward for the existence of a central sanctuary in the period of the judges would lead to the conclusion that there is in fact no sanctuary which could have claimed this position for itself. There is rather the probability that all the sanctuaries proposed enjoyed the same significance in their several districts and that while the ark may have constituted a temporary attraction for pilgrims to a particular sanctuary, this does not necessarily involve the idea that that sanctuary was considered in any way as a central sanctuary in the same way as the amphictyonic shrines at Delphi and Demeter.

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81. Smend, *ibid.*, p.71 n.1, attempts to deprive the ark of this importance for Ephraim by pointing out that no attempt was made to retrieve it after it was abandoned by the Philistines. However, it is unlikely that the Philistines gave up all control of the ark until the time it was brought up to Jerusalem by David, cf. E. Jacob, La tradition historique en Israel (Études théologiques et religieuses), Montpellier 1946, pp. 74f; Eissfeldt, "Silo und Jerusalem", VT Suppl. IV, 1956, p. 142. See also T.E. Fretheim, "Psalm 132: A Form-Critical Study", JBL 86, 1967, p.296 and n.32, who argues that the Philistines had control of Kiriath Jearim while the ark was there, and furthermore that it is probable, in the light of his zeal against the Gibeonite league (2 Sam.21:1ff) to which Kiriath Jearim belonged (Josh. 9:17), that Saul unsuccessfully attempted to retrieve the ark.

If this is the case then it also makes the interpretation of לְיָדָיו as tribal representative somewhat questionable. For it is only on the presupposition of the existence of a central sanctuary that such an interpretation can really stand. Noth's view of the meaning of the word is based mainly on its use in late passages, but he argues that it is unlikely that it was only at this comparatively late time that a special, technical significance was attached to the word לְיָדָיו , as well as to the words לְיָדָיו and לְיָדָיו both of which occur in the narrative of the war against Benjamin in Judg. 19-21. According to Noth, all these words derive from the speech usage of the old Israelite amphictyony, and we should not be surprised that, apart from the few passages in the Old Testament which stem directly from the tradition of the amphictyony, these words should first appear again in P, since the older historical, prophetic and poetic literature had no occasion to use them.⁸² However, apart from the fact that it is not immediately clear that these late passages which Noth uses do ultimately derive from a source such as the old Israelite amphictyony, it is to be noted that it is only in these late passages that the word לְיָדָיו can easily bear the significance of 'tribal representative'. Where the word occurs in what is clearly a relatively early source there is not the slightest indication that it had the meaning which Noth ascribes to it. For example, in Gen. 34:2 לְיָדָיו apparently has the general meaning of 'leader' or 'prince', while the same is the case in Ex.22:27

82. So Noth, Das System, pp. 102f n.2.

(EVV 28).⁸³ The word seems to be used to designate a chief or leader of some kind, but no representative function is indicated except in so far as every leader is a representative, and certainly, apart from the late P passages, there is no statement to the effect that the $\text{K}'\dot{\text{U}}]$ was the representative of an individual tribe.⁸⁴

83. It is also to be noted that this verse belongs to that corpus known as the Book of the Covenant, the origin of which has been set within the framework of the amphictyony, cf. above pp. 16ff; cf. also Nu. 25:14 which gives the impression that one tribe could have a number of $\text{D}'\text{K}'\dot{\text{U}}]$.

84. On the $\text{K}'\dot{\text{U}}]$ cf. also Orlinsky, op.cit., p. 379 n.2. According to E.A. Speiser, "Background and Function of the Biblical Nāšī", CBO XXV, 1963, pp. 111-117, the $\text{K}'\dot{\text{U}}]$ is to be understood in the sense of a chosen leader of a tribal alliance; cf. also Irwin, op.cit., pp. 168f, who disagrees with Noth's view that the $\text{D}'\text{K}'\dot{\text{U}}]$ had a particularly sacral function: all who had authority were considered to exercise a sacral function. According to H. Cazelles, Études sur le code de l'alliance, Paris 1946, pp. 81f, 137f, the office of $\text{K}'\dot{\text{U}}]$ was that of judge. It was something analogous to the position of the nomadic sheikh charged with deciding the affairs of the clan; but since the institution had no deep roots in Israel it fell out of use during the monarchy period, to be revived again at the time of Ezekiel - a time of restoration and care for ancient ways.

(iii) The Judge of Israel

Hitherto we have found nothing definite to suggest that Israel in the pre-monarchy period was organized along the lines of the Greek amphictyonies. Indeed, as yet, there has been no evidence of any connection between the tribes or any office or institution on which such a connection might have been based. This is the case with the conjectured institution of the central sanctuary and office of the שופט. However, there is still another office proposed for this period which must be considered since, if it existed, it would certainly constitute a strong link between the tribes. This is the office of the שופט ישראל: the 'judge of Israel'. In Judg. 10:1-5; 12: 7-15, there is a list of six men who are said to have 'judged Israel'.⁸⁵

85. That the list is a unity which has been subsequently broken by the insertion of the Jephthah story has been shown by Noth, "Das Amt des Richters Israels", Bertholet Festschrift, Tübingen 1950, p.406. The Jephthah story was incorporated at this point by the deuteronomistic editor because Jephthah also appears in the list of judges in Judg. 10:1-5; 12:7-15 - the so-called 'minor judges'. In so doing, the editor suppressed the usual formula: "after him....judged Israel", which we would expect before 12:7; cf. also Noth, Überlieferungsgeschichtliche Studien, pp.48f. According to Schunck, "Die Richter Israels und ihr Amt", the list had originally twelve judges: Joshua, Othniel, Ehud, Gideon, Thola, Jair, Jephthah, Ibzan, Elon, Abdon, Samson, and Samuel. This is to be seen from the definite literary similarity in the way all these men are introduced. Schunck holds that in telling of twelve men, the compiler of the list was consciously relating it to the twelve tribes of Israel. Whatever the case may be with Joshua, Othniel, Ehud, Gideon and Samson, it seems that the strongest arguments can be put forward for including Samuel among the 'minor judges' cf. also below n.101.

No information is given about them beyond the name, home, number of years in office and place of burial, except that for three of them some other legendary details concerning numerous posterity are attached.⁸⁶ Since there is no trace of Deuteronomistic editing here the list has been understood as a later insertion into its present context,⁸⁷ but Noth has attempted to show that, while this may be the case, it should still be acknowledged that the list is authentic and that it records the names of those men who occupied the amphictyonic office of 'judge of Israel'.

Noth has pointed out that the actual title 'judge of Israel' is met with only once in the Old Testament, in Mic.4:14 (EVV 5:1), but he argues that, since, in his view, it is unlikely that it refers here to the Davidic king, we must see in the expression the title of those who 'judged Israel' of whom there are some representatives in Judg. 10: 1-5; 12: 7-15. Referring to Deut. 17: 8-13 and Mic. 4:14, Noth concludes that this office of 'judge of Israel' must, like the amphictyony itself, have persisted through the period of the monarchy.⁸⁸

86. cf. D.A.McKenzie, "The Judge of Israel", VT 17,1967,pp.119f

87. For references, cf. Rowley, From Joseph to Joshua, pp.92f

88. cf. Noth, "Das Amt des Richters Israels", p.415. On the continuation of the institution of the amphictyony throughout the period of the monarchy, with Jerusalem as the central sanctuary, cf. Noth, "The Laws in the Pentateuch. Their Assumptions and Meaning", The Laws in the Pentateuch and Other Essays (.E.T. Edinburgh 1966), pp. 28ff. This is followed up and developed by Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp.25ff. However, cf. von Rad, Studies in Deuteronomy (SBT 9), London 1953, p.64 n.2.



As for the functions of this 'judge of Israel', it may be concluded from Deut. 17: 8-13 that on him there devolved the particularly difficult cases. It may also be the case that the judge, as the bearer of a sacral amphictyonic office, also had the task of proclaiming the divine law at assemblies of the tribes,⁸⁹ while it is also likely that mediation in border disputes came within the sphere of his functions.⁹⁰ According to Noth, these 'minor judges' were the real judges to whom the term דִּי־שֹׁפֵט properly belongs,⁹¹ and the

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89. cf. Noth, History, pp. 102f. So against Alt, "The Origins of Israelite Law", Essays on Old Testament History and Religion, pp. 102f, who argued that the law proclaimed by the 'minor judges' was the casuistic law adopted from the Canaanites.
90. cf. Noth, "Überlieferungsgeschichtliches zur zweiten Hälfte des Josuabuches", Alttestamentliche Studien (Friedrich Nötscher Festschrift), Bonn 1950, p.163. This is followed by Smend, Jahwekrieg und Stämmebund, p.35.
91. The problem of the use of the term שֹׁפֵט as the designation also of the charismatic deliverers in the Book of Judges has aroused some controversy, and has by no means been settled yet. According to Noth, the term was originally, and properly, applied to the 'minor judges', but was extended editorially to cover also the charismatic deliverers since Jephthah is numbered among both types, cf. History, p.101; and Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch", Tradition und Situation (Artur Weiser Festschrift), Göttingen 1963, p.7. Smend, Jahwekrieg und Stämmebund, pp. 40f., tried to trace a more definite connection between the minor judges and the charismatic deliverers by pointing out that not only Jephthah but perhaps also Joshua (cf. Josh. 17: 14ff) falls into both categories, while in the cases of Deborah and Barak, Samuel and Saul, we may have a minor judge appointing a charismatic deliverer, cf. also D.A. McKenzie, op.cit., p.119 and R. Rendtorff,

Note 91 continued

"Reflections on the Early History of Prophecy in Israel", History and Hermeneutic (E.T. of ZThK vol. 4), New York 1967, pp.30f. A rather different attempt to solve the problem is that by W. Schmidt, Königtum Gottes in Ugarit und Israel, BZAW 80, 1961, pp. 28ff (cf. also the earlier work of F.C. Fensham, "The Judges and Ancient Israelite Jurisprudence", and that of A. van Selms, "The Title 'Judge'" - both articles in Die Ou Testamentiese Werkgemeenskap in Suid-Afrika, Pretoria 1959, pp. 15ff and 41ff respectively. I have been unable to consult these articles). Schmidt finds the meaning 'rule' for šp by referring to the cognate Ugaritic word tp̄, which is found in parallelism with zbl 'prince' and mlk 'king'. The meaning 'rule' he finds to conform best with the context of the enthronement psalms, in Ps. 96: 13; 98:9, where the root is also used. See also W. Richter, "Zu den 'Richtern Israels'", ZAW 77, 1965, pp. 57ff, who follows Schmidt and (ibid. pp. 61ff) discovers further support in the Mari tablets and in Phoenician-Punic material. However, there can be no doubt that the meaning 'judge' is required for by far the majority of occurrences of the word in the Old Testament, whereas the meaning 'rule' only suits, but is not required, in one or two (the same criticism may also be raised against the novel idea put forward by H.C. Thomson, "Shophet and Mishpat in the Book of Judges", Transactions of the Glasgow University Oriental Society, vol.XIX, 1961-62, pp. 74-85. Here it is proposed that the root šp refers to the ascertaining of the divine will with regard to the matter at hand, and that šp̄ is the divine decision). So the question is raised even more urgently why it is that the deuteronomist should have used šp to designate the person known in the earlier tradition as šp̄. It is possible that an explanation lies in an elucidation of what the Old Testament means by the word 'judge'. If, as seems likely (cf. L. Koehler, Hebrew Man, London 1956, pp. 156f), it has the idea of 'one who helps a person to get justice', from which the derived significance of 'deliverer' is apparently required in 2 Sam. 18: 19,31 (cf. also 1 Sam. 8:6; 24:16), one can perhaps understand the application of the term to the charismatic heroes without recourse to Ugaritic, cf. von Rad, Old Testament Theology

Note 91 continued

vol. 1, p. 331 n.7; J.L. McKenzie, The World of the Judges, London 1967, p.16; Mowinckel, He that Cometh Oxford 1956, p.178.

fact that we have in the list of Judg. 10; 1-5; 12: 7-15 an unusually authentic record of the number of years for which each judge held office, suggests to Noth that the position of judge was of central importance in the amphictyony, and that reference was made to the name and year of the office-bearer in the dating of events.⁹²

However, there are some objections which may be raised against this view. The silence of our sources on the possible existence of such an office, though not a strong argument against Noth, is nevertheless significant. Furthermore, it is not altogether certain that it is not the king who is referred to in Mic. 4:14. This is a misplaced verse which probably belonged originally at the conclusion of the song of lament in Mic. 1:8-16⁹³, in which position its most likely reference is to the

92. "Das Amt des Richters Israels", p.414 n.1; idem, Überlieferungsgeschichtliche Studien, p.48; cf. further, O. Grether, "Die Bezeichnung 'Richter' für die charismatischen Helden der vorstaatlichen Zeit", ZAW 57, 1939, pp. 110ff.

93. Strong arguments in favour of this have been put forward by Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 17ff. But against this, cf. J.T. Willis, "Micah IV 14 - V5 - a Unit", VT 18, 1968, pp. 532ff. However, even here it is argued that v.14 refers to the king.

king.⁹⁴ Again, in the list of David's officers in 2 Sam. 8: 15-18 there is no mention of the appointment of a לְאַתְּוֹן שֹׁפֵט⁹⁵ but instead it is David himself who is said to have administered הַדִּינִים שֹׁפֵט to all his people (2 Sam. 8: 15),⁹⁶ while in 2 Sam. 15: 1-4 it is evident that it was by taking advantage of his father's failure to fulfil this duty that Absalom tried to win support for himself from disappointed claimants.⁹⁷

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94. Noth's main objection to the application of 'judge of Israel' to the king is that it would be so unusual that people would hardly understand immediately who was meant by the expression. However, this objection is not valid if the verse did belong originally at the end of 1:8-16; in this passage there is word play which is also to be found twice in 4:14 (EVV 5:1):
וַיִּתֵּן יְהוָה אֶת־הַמִּשְׁפָּט וְאֶת־הַדִּינִים and לְאַתְּוֹן שֹׁפֵט אֶת־יִשְׂרָאֵל
 Furthermore reference is made in Mic.1:8-16 to Jerusalem and to the 'kings of Israel'. Also in 2 Kings 15:5 and Is.16:5 the Davidic king is designated as שֹׁפֵט; cf. Beyerlin, Die Kulttraditionen Israels, pp.18ff; and, further, N.W.Porteous, "Actualization and the Prophetic Criticism of the Cult", Tradition und Situation, p.96; D.A. McKenzie, op.cit., p.121; Kraus, Worship in Israel, pp. 188f; O.Bächli, Israel und die Völker, Zürich 1962, p.187 and n.36, pp.189f.
95. It seems most unlikely that in the period of the monarchy the appointment to such an office, if it existed, would lie anywhere but with the king.
96. There is no need to understand from this that all judicial functions devolved on the king alone. No doubt the elders at the city gate still played a part in the local administration of justice.
97. However, for a different interpretation of these verses, cf. Alt, "The Formation of the Israelite State in Palestine", p.228 n.149, who, with reference to 2 Kings 4:13, thinks that the 'complaints' were the result of "alleged or real excessive demands in the matter of the military levy". But Alt does not take 2 Sam. 8:15 into account here when he says (loc.cit.) that "there

Note 97 continued

is no evidence from this early period of the development of a royal court of appeal in matters of private legislation"; cf. also Ps. 122:3-5 and F. Horst, "Recht und Religion im Bereich des Alten Testaments", Gottes Recht, München 1961, pp. 264f; and Ps. 101 with the remarks of A.R. Johnson, Sacral Kingship in Ancient Israel (2nd edit.), Cardiff 1967, p.116 n.1; idem, "Hebrew Conceptions of Kingship", Myth, Ritual and Kingship (edit. S.H. Hooke), Oxford Univ. Press 1958, pp. 206f.

Also, 1 Sam. 10:25 (see also 1 Sam. 8:5), in spite of the fact that verses 25-27 are sometimes taken to be editorial⁹⁸, seems to indicate the transfer to the king of the former judicial functions of Samuel.⁹⁹ Thus, for the monarchy period, it can only be concluded that if such an office as the 'judge of Israel' existed, then it must have been occupied by the king.

For the pre-monarchy period the ground is less certain. It is not altogether clear that the title 'judge of Israel' should be applied to those listed in Judg. 10: 1-5; 12: 7-15. These men are said to have 'judged Israel', but it scarcely follows from this that they were the occupants of an office the bearers of which had the title 'judge of Israel', any more than that the same could be said of Othniel (Judg. 3:10) or of Samson (Judg. 15:20), or that the title

98. cf. G.B. Caird, "Exegesis of Samuel", IB vol. 2, p. 937. However, cf. W. McKane, I & II Samuel (Torch Bible Commentaries), London 1963, p.79, who suggests that v.25 is not necessarily late, but may "reflect an early if unsuccessful attempt to preserve the social values of amphictyony by limiting the monarchy".

99. On the responsibility of the king for justice, both within Israel and in the Ancient Near East in general, cf. Johnson, Sacral Kingship in Ancient Israel, pp. 4ff, 7ff, 137ff; cf. also Clements, Prophecy and Covenant, p.73, who argues that the king "could never have allowed the continued existence of a rival spokesman (i.e. the conjectured 'judge of Israel') for all Israel".

'deliverer of Israel' could be applied to Shamgar (Judg.3:31).¹⁰⁰ The problem is: can some method be found of checking the authenticity of the list when it speaks of these men having judged 'Israel'? Fortunately such a method is available; for Samuel, who should be included among the 'minor judges',¹⁰¹ and who is said to have 'judged Israel' just like the minor judges (1 Sam. 7: 15), is treated in much more detail by the tradition, and it is from this that something can be concluded on the sphere of influence of these minor judges. In 1 Sam 7: 16¹⁰² it is recorded that Samuel each year went on a circuit which included Bethel, Gilgal and Mizpah¹⁰³ - three

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- 100 This would seem to be the case even if Noth, Überlieferungsgeschichtliche Studien, pp. 49f, is right in saying that the deuteronomist carried over to the charismatic deliverers the all Israel significance which he found already attached to the 'minor judges'.
- 101 That Samuel should be included among the minor judges has been argued by Smend, Jahwekrieg und Stämmebund, pp. 52f; cf. also Weiser, Samuel, pp. 10ff, and others. Schunck, "Die Richter Israels und ihr Amt", p.255, has shown in detail how the literary form which is used of Samuel in 1 Sam. 7: 15-16a; 25:1, corresponds closely with that used of the 'minor judge', cf. also Richter, op.cit., pp. 47f.
- 102 Taken by Noth, Überlieferungsgeschichtliche Studien, p. 60, as part of an old Samuel tradition.
- 103 There were several places in Palestine bearing the name Mizpah or Mizpeh, which is not very surprising in view of the meaning of the name. The one mentioned here is probably to be identified with Tell en-Nasbeh, about seven miles north of Jerusalem, though Nebi Samwil, about five miles north of Jerusalem is also a strong possibility, cf. Noth, The Old Testament World, p.137.

sanctuaries;¹⁰⁴ and at these places, all lying within the territory of the mid-Palestinian tribes, Samuel judged 'Israel'. So Samuel's office of administrator of justice was of local significance,¹⁰⁵ for the fact that this circuit was made at all shows that those whom Samuel 'judged' dwelt in the immediate vicinity of these places. Corresponding to this, there seems to be every likelihood for the local significance of the other minor judges of Judg. 10: 1-5; 12: 7-15.

- 104 This is perhaps doubtful in the case of Mizpah, which seems to figure as a sanctuary only in the late anti-monarchic tradition in 1 Sam. 7: 6; 10: 17, cf. Noth, Überlieferungsgeschichtliche Studien, pp. 54f. Schunck, Benjamin, conjectures that Mizpah was the home of the deuteronomist. Weiser, Samuel, pp. 7ff, disagrees with Noth's view of 1 Sam. 7 as expressing the anti-monarchic tendency of the deuteronomist, and instead (ibid. pp. 13ff) finds here many traditional cultic elements deriving from a tradition which possibly reaches back to the time of Samuel himself. However, the criticism made above (n.68) of Weiser's treatment of 1 Sam. 12 also applies in this case. On Mizpah, cf. also J. Muilenburg, "Mizpah of Benjamin", StTh VIII, 1954, pp. 25ff.
- 105 Smend, Jahwekrieg und Stammesbund, pp. 34f, says that it is doubtful if the office of 'minor judge' should be represented according to Deut. 17: 8ff; but he argues that we should still recognise some connection in spite of the time gap. Noth, "Das Amt des Richters Israels", p.416, n.4, holds that Deut. 19: 17, where there is the plural 'judges', is a secondary assimilation to the formulation of Deut. 17: 9; but in view of 2 Chr. 19: 8-11 this cannot be certain.

Their sphere of influence has been subsequently extended, as with that of Samuel in 1 Sam. 7:16, to cover all Israel. Their reputations as administrators of justice may have spread beyond the confines of their respective tribes,¹⁰⁶ but at any rate, their connection with any tribal federation is far from having been demonstrated, and their exact functions remain totally obscure.¹⁰⁷

106. cf. Albright, From the Stone Age to Christianity, pp. 283f.

107 cf. G.E. Menderhall, "The Relation of the Individual to Political Society in Ancient Israel", Biblical Studies in Memory of H.C. Alleman, New York, 1960, p. 90 n.4. The fact that the total number of years covered by the list is only seventy-six is also against ascribing an amphictyonic significance to the office; cf. also Eissfeldt, "The Hebrew Kingdom", p.20, who concludes that in the records on the minor judges we have "more or less confused recollections of persons or groups which played some role in Israelite tribes or areas, and of the places at which they were actually or supposedly buried". However, the number of years of office ascribed to each judge encourages confidence in the authenticity of the list, and it is unlikely that we have to do with the personification of groups, cf. Noth, "Das Amt des Richters Israels", pp. 412f. Irwin, op. cit., p.182, has made the interesting suggestion that Samuel's circuit of Bethel, Gilgal and Mizpah should be seen in the light of the law of Ex. 23: 14-17, the command to observe the festivals. Irwin thinks that it is most reasonable to conjecture that Samuel visited each sanctuary in turn at the time of one of the three festivals when a large number of Israelites would be present. This is a very attractive theory, but, again, because of our lack of information and the question of the position of Mizpah as a sanctuary, it must of necessity remain in the realm of the conjectural.

(iv) The Tribal Borders

It was noted earlier that Noth suggested that one of the functions of the minor judge was to establish the border lines between the individual tribes, and indeed already before this it had been argued that the border descriptions in Josh. 13-19 are to be derived from the pre-monarchy period.¹⁰⁸ According to this view, the borders represent a combination of the actual and the ideal: they describe the territory which each tribe possessed in the period of the judges combined with the territory which it claimed it should possess, but which at that time was still under foreign control. Furthermore, it has also been claimed that the present system of borders may go back ultimately to a document drawn up by one of the minor judges.¹⁰⁹

108 cf. Alt, "Das System der Stammesgrenzen im Buche Josua", Kleine Schriften zur Geschichte des Volkes Israel, vol. 1, München 1953, pp. 193ff; cf. also idem, "The Formation of the Israelite State in Palestine", p. 222. Alt is followed by von Rad, Old Testament Theology, vol. 1, p.299; and Noth, History, p.54; idem, Das Buch Josua, pp. 13ff.

109. So Noth, "Überlieferungsgeschichtliches zur zweiten Hälfte des Josuabuches", p.163. We are not concerned here with the city lists of Judah, Benjamin and Dan in Josh. 15:21-62; 18:21-28; 19:2-7, 41-46, which are generally acknowledged to come from a later period. Alt, "Judas Gaue unter Josia", Kleine Schriften zur Geschichte des Volkes Israel, vol. 2, pp. 276ff., argues that they originated in the time of Josiah, and so represent the greatest extent of the Judean kingdom, while Cross and Wright, "The Boundary and Province Lists of the Kingdom of Judah", JBL 75, 1956, pp. 222ff (cf. also Bright, "Introduction and Exegesis of Joshua", IB vol. 2, p.545; Noth, Das Buch Josua, p.14), find that the province list of

Note 109 continued

Judah included only Josh. 15:21-62; 18:21-28, which goes back to the time of David, but was brought up to date under Jehoshaphat. According to Y. Aharoni, "The Province List of Judah", VT 9, 1959, pp. 225ff, the Judean province list includes only Josh. 15:21-44, 48-62; 18:25-28, while 18:21-24 represents a fragment of a place list of the kingdom of Israel giving the Benjamin district of Israel; cf. also J.H. Grønbaek, "Benjamin und Juda", VT 15, 1965, pp. 432f. At any rate, it is clear that the situation presupposed in these city lists does not suit the conditions of the pre-monarchy period.

Now it is clear that, if this view is substantially correct, then one is forced to presuppose some sort of central authority which could impose the decisions on the individual tribes. In other words, one would have to presuppose conditions which would be more than favourable to the idea of a pre-monarchy twelve tribe federation which could have taken the form suggested by Noth.¹¹⁰

A certain conclusion on this question cannot be arrived at on the basis of arguments on the time of final editing of these chapters of the Book of Joshua. Even if they come finally from the hand of the priestly writer it can hardly be disputed that the priestly writer was using

110 One of the objections brought by Mowinckel, Zur Frage nach dokumentarischen Quellen in Josua 13-19, p.16, against the view that the borders go back to a document from the pre-monarchy period, is that there was no twelve tribe amphictyony, and therefore the "gemeinsames Machtzentrum" presupposed by the border system was completely lacking. However, it seems to me that, since the existence of the amphictyony can only be proved or disproved by circumstantial evidence, one cannot come to a conclusion before all the evidence is taken into account. If the border system comes from the judges period then this is circumstantial evidence in favour of the amphictyony. If it does not, then the amphictyony theory is then further weakened. One cannot deliver judgement on the date of the border system on the basis of a pre-conceived conclusion with regard to the amphictyony, since the border system, if it comes from the judges period, constitutes one of the supports of the amphictyony theory.

written tradition from an earlier period.¹¹¹ Thus, it is necessary to examine some of these borders in order to determine if in fact they do come ultimately from the pre-monarchy period.

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- 111 It is not necessary to go into detail here on the question of the presence of P in Josh. 13-19. Noth's argument, in conformity with his view of Deuteronomy - 2 Kings as an independent historical work, is that the priestly writing ended with the death of Moses and that the other Pentateuchal sources were later curtailed in order to fit into this framework provided by P; cf. Überlieferungsgeschichtliche Studien, pp. 180ff; idem, Überlieferungsgeschichte des Pentateuch, pp. 7ff. Bright, IB vol. 2, pp. 543f., seems rather inconsistent on the question. He agrees with Noth: 1. that Josh. 1-12 is part of the deuteronomistic historical work; 2. that there is no P document in chs. 13-19; 3. that the JE narrative of the Pentateuch was inserted within the framework of P. However, in spite of this, he argues that the older material underlying Josh. 1-12 is JE. Only the third of the three arguments adduced by Bright in favour of this position constitutes a valid objection to Noth's theory, yet even this is seriously weakened by the uncertain authenticity of the reference to Shittim in Nu. 25:1a, cf. Noth, Überlieferungsgeschichte des Pentateuch, p.35 n.125. It is clear that the problem of the relationship of the Pentateuch with the Book of Joshua is by no means finally solved.

With reference to Josh. 13-19, Mowinckel, Zur Frage nach dokumentarischen Quellen in Josua 13-19, denies that there are any written documents behind Josh. 13-19, and so holds that the chapters are the product of the post-exilic author (not redactor) P; cf. also Weiser, Introduction to the Old Testament (E.T. London 1961), pp. 146f. However, it is difficult to estimate to what extent Mowinckel considers P to have been an author, for, besides reckoning with a judicious author who was capable of using his knowledge of the geography of his own country, Mowinckel argues that we must also reckon in Josh. 13-19 with a living tradition (ibid., p.11). But Mowinckel's main objection to the idea

Note 111 continued

of P having used written documents is that he does not see how such documents could have survived the ransacking of Jerusalem in 587 B.C. (ibid., p.8). However, that such documents did survive is adequately attested to by the many references in the books of Kings to the chronicles of the kings of Israel and Judah, cf. Noth, "Überlieferungsgeschichtliches zur zweiten Hälfte des Josuabuches", p.158. Here we have official material, taken up and used in compilations after 587 B.C., and so there is no valid objection to considering that the lists of Josh. 13-19 do in fact rest, not on oral tradition, but on written documents.

The western boundary of Judah, according to Josh. 15:1-12, is the Mediterranean Sea. Thus, the five city-states of the Philistines are included in the province of Judah. Such a province is impossible for Judah in the judges period, but is well understandable in the time of David when the Philistines were reduced to the state of vassals. Rather than that we should explain Josh. 15: 1-12 as being a combination of what Judah actually possessed in the period of the judges and what it claimed it should possess,¹¹² it is much more likely that, having gained control of this area under David, the newly won districts came to be regarded as the possession of Judah by right, which it had been meant to occupy from the beginning, and so, in order to add authority and justification to this possession, the allotment of this area to Judah was put back to the command of Joshua.

In Josh. 16:9; 17:8-11, the impression is given of an expansion of the tribe of Manasseh. In 16:9 there is reference to the 'towns which were set apart for the Ephraimites within the inheritance of the Manassites', and in 17:8 we read that, although the land around Tappuah belonged to Manasseh, the city itself belonged to Ephraim. This seems to presuppose that Manasseh advanced into what was formerly Ephraimite territory, but that the inhabitants of the towns within this area settled by Manasseh still reckoned themselves to be Ephraimites. Similarly on the

112 cf. Noth, "Überlieferungsgeschichtliches zur zweiten Hälfte des Josuabuches", p.162

northern border, according to Josh. 17:11, Manasseh extended its territory to include parts of Issachar and Asher. From what we know of the pre-eminence of Ephraim in the period of the judges it is apparent that such an expansion of Manasseh as is evident from Josh. 16:9; 17:8-11 cannot have taken place in this early period.¹¹³ This expansion must have taken place during the monarchy period, though, unfortunately, because of the paucity of our information on the north, for this period, it is impossible to fix any more precisely when the expansion of Manasseh took place.¹¹⁴

113. The prominence of Manasseh is also presupposed in Nu. 26, where we find that Manasseh precedes Ephraim and that the numbers of those belonging to Manasseh is far in excess of those belonging to Ephraim. In fact, except for Simeon, the numbers assigned to Ephraim are the lowest of all the tribes. With regard to the border given for the 'house of Joseph' in Josh. 16:1-3, Schunck, Benjamin, pp. 146ff, has very plausibly conjectured that this is a supplementary document to Josh. 15:1-12, coming from the time of Rehoboam, and giving the new northern border of Judah at this time. This would account for the fact that only the southern border of the 'house of Joseph' is given in Josh. 16:1-3, and that this is substantially repeated in Josh. 16:5b-6a. According to J.L. McKenzie The World of the Judges, p.6, "the boundary lists deal only with the territory of the kingdom of Judah and the territory of the kingdom of Israel where it touches the territory of Judah".

114 W.J. Phythian-Adams, "The Boundary of Ephraim and Manasseh", PEFQS, 1929, p.240, suggests the time of the extermination of the Issachar dynasty of Omri by Jehu who may have been of Manassite stock; cf. also Mowinckel, "'Rahelstämme' und 'Leastämme'", pp.141f, who also finds evidence of the superiority of Manasseh in the monarchy period.

In Josh. 13-19 definite borders are given only for Judah (15:1-12), Ephraim (16:5-8), Manasseh (17:7-9)¹¹⁵ and Benjamin (18:12-20).¹¹⁶ With the Transjordanian and Galilean tribes, however, no fixed borders are given, but instead just a bare list of places within the territory of each tribe.¹¹⁷ This state of affairs is clearly much more

115 On the borders of Ephraim and Manasseh, cf. also A. Kuschke, "Historisch-topographische Beiträge zum Buche Josua", Gottes Wort und Gottes Land (H.W. Hertzberg Festschrift, herausg. von H. Graf Reventlow), Göttingen 1965, pp. 102ff.

116. Schunck, Benjamin, pp. 149ff., holds that the Benjamin border list rests on a combination of the Davidic border list of Judah (Josh. 15:1-12) and its supplementary list from the time of Rehoboam (Josh. 16:1-3), taking into consideration also the place lists of Dan (Josh. 19:40ff) and of 1 Kings 4:8ff and Judg. 18:2ff. This combination was undertaken by the deuteronomist.

117 In spite of the descriptive character of Zebulun's alleged territorial borders in Josh. 19:10-15, it seems that we have here an original city list which has later been overworked to turn it into a border description. This is evident from its incompleteness, and from the concluding phrase of v.15, "twelve cities and their villages", which is not used for border descriptions, but is used in the city lists. Josh. 19:22a includes a fragment of a boundary of Issachar, but this may not be original. Similarly, Josh. 19:25-30 is probably an original city list subsequently overworked to resemble a border description. This is suggested by the fact that in v.27 the cities Bethemek, Neiel and Cabul are given as running in a south-north direction, whereas they really come in the opposite order. For Naphtali in Josh. 19:32-34 there is a very obscure border description, as well as a city list. On the section in Josh. 19:40-48, dealing with the tribe of Dan, cf. J. Strange, "The inheritance of Dan", StTh XX, 1966, who argues that it is based on a list compiled in the reign of Josiah.

intelligible in the late monarchy period when tribal borders ceased to have much significance, than in the judges period, especially if one has to reckon with an amphictyony at that time.

So it is evident that, although Josh. 13-19 may reflect approximately the settlement area in the period of the judges of each tribe which is dealt with, it cannot be accepted that the system of tribal borders in Joshua goes back to a document from this early time, and much less can it be considered that one of the functions of the so-called 'minor judges' was to determine these borders.

(v) The Holy War

It has also been argued¹¹⁸ that the amphictyony was "a band of tribes which, besides engaging in cultic activities in the narrower sense, also safeguarded and defended its whole political existence, sword in hand". And indeed, it is certainly to be expected that if such an amphictyony existed it would reveal itself at some stage in united action against a common foe. It is true that the 'holy war' is not to be seen as an amphictyonic institution in the same sense as the $\{ \text{שׁוֹמֵר} \}$ or the judge,¹¹⁹ yet the essence

118 von Rad, Studies in Deuteronomy, p.45

119 Indeed the very fact that the leader of the holy war was once called by Yahweh to fight his battle supports this. If it had been a function of the amphictyony this 'Auftragsberufung' would have come from the amphictyony itself or at least would have been confirmed by it, cf. Smend, Jahwekrieg und Stämmebund, p.38

of the holy war that it was a war waged in the knowledge that it was Yahweh's war which thus involved ritual sanctification and abstention on the part of the warrior.¹²⁰ Furthermore, it ended with the assignment of the booty to Yahweh - the 𐤀𐤓𐤁.¹²¹ On the other hand, since, according to the theory, the amphictyony was a group of tribes united in the service of Yahweh it is clear that the holy war could not have been completely without connection with the amphictyony. Thus, against the proposed background of an organized federation of twelve tribes, with a common cult, with their individual tribal representatives, and with their common submission to the authority of a common law and a common judge, it would only be expected that in spite of the continued independence of the tribes there should on occasion have appeared the combined forces of the tribes to repulse an enemy threatening their security.¹²²

120 cf. 1 Sam. 14:24; 21:6; 2 Sam. 11:11. Voegelin, op. cit., p.262, argues that Nathan's parable is a later interpolation in the text and that the real crime of David was the violation of the sex taboo at a time when a holy war was being waged; Nathan's parable was then inserted at a later stage when the real issue was no longer understood. On the idea of the holy war, cf. especially von Rad, Der heilige Krieg im alten Israel, ATANT 20, Zürich 1951; Smend, Jahwekrieg und Stämmebund, ch.2. It is not all that certain that a holy war had to be a defensive one, as von Rad, Der heilige Krieg im alten Israel, p.19, would have it, cf. Bright, History, p.126 n.67; Newman, The People of the Covenant, p.102 n.3. According to Graf Reventlow, "Kultisches Recht im alten Testament", ZThK 60, 1963, p.293, the holy war was originally a means of punishment.

121 cf. 1 Sam. 15.

122 cf. W. Eichrodt, Man in the Old Testament (SBT 4), London 1951, pp. 42,46.

Yet it is precisely here that the complete disunity of the tribes is most clearly seen. The present form of the Books of Joshua and Judges presents these battles as the combined efforts of all Israel, but it is clear that this is a view of later ages, and that originally the stories, in most cases, told of quite local events. This is true of the conquest,¹²³ as well as of those battles which took place in the period of the judges.

- 123 The historical course of the conquest is still very much a matter of dispute. The main outlines of it, however, have been admirably clarified by Alt, "The Settlement of the Israelites in Palestine", Essays on Old Testament History and Religion, pp. 135ff. It is in the detailed evaluation of the conquest narratives that there is most uncertainty. The method of investigation adopted by Noth, which assumes a continuing connection between the tradition and the locality with which it was associated, has led him to treat the conquest narratives of Josh. 2-9 as having been the conquest tradition of the tribe of Benjamin, which only later became that of all Israel, cf. his Das Buch Josua, in loc. Against this, Bright, Early Israel in Recent History Writing, pp. 102f., argues that traditions belong not to places but to the people who feel participation in them, so that just because Josh. 2-9 is located mainly in the province of the tribe of Benjamin, the conclusion does not necessarily follow that only Benjamin had a part in the events. Whatever may be the final outcome of this debate, if such is ever attained, it is nevertheless clear that the conquest of Palestine was not the united onslaught which is presented in these chapters.

The war which Gideon waged against the Midianites¹²⁴ was a local defensive one in which he, with a band of his fellow Abiezrites, succeeded in repulsing a raiding party from the east. In later times it was understood as having been of wider significance and the additions of Judg. 6:35 and 7:23 were introduced, perhaps under the influence of the reference in Judg. 8:18 to Mt. Tabor, the mountain marking the place where the borders of Zebulun, Naphtali and Issachar met.¹²⁵

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- 124 In the Gideon narrative two stories are to be distinguished, cf. von Rad, Der heilige Krieg, p.23; G.F. Moore, Judges, ICC, Edinburgh 1895, p.174. The second (Judg. 8:4-21) is simply a blood feud, while it is in the first (Judg. 7: 1-8:3) that the holy war is to be found. Judg. 6:35 is taken by von Rad as an addition, so that Gideon had behind him in the original account only the Abiezrites (cf. also J.A. Soggin, Das Königtum in Israel BZAW 104, 1967, p.16), and so von Rad hesitates to describe the battle as a holy war in the full sense, since he holds that it was only after the victory of Gideon with his small band that the collective action of the tribes came into force. On the way in which Gideon became connected with the Jerubaal-Abimelech tradition, cf. H.Haag, "Gideon-Jerubaal-Abimelech", ZAW 79, 1967, pp. 305-314. See also B. Lindars, "Gideon and the Kingship", JTS 16, 1965, pp.315-326.
- 125 cf. Judg. 4:6. Tabor is claimed to have been an amphictyonic sanctuary by Alt, "Galiläische Probleme. 4. Galiläas Verhältnis zu Samaria und Judäa im hellenistischen Zeitalter", Kleine Schriften zur Geschichte des Volkes Israel vol. 2, p.404 n.4; Kraus, Worship in Israel, pp. 166ff; von Rad, Old Testament Theology, vol. 1, p.21. That only the Abiezrites were involved seems to be confirmed by Judg. 8:2.

From the story of Jephthah the Gileadite it is clear that he was simply a freebooter who undertook, at a price, to relieve the men of Gilead from the oppression of the Ammonites. His rise to power was initiated, not by the spirit of God taking possession of him, but by the approach of the elders of Gilead who wished to make a deal.¹²⁶

There is no question here of any united action on the part of all Israel. Similarly Abimelech's kingship concerned only Shechem and perhaps also the surrounding villages,¹²⁷ while the stories of Ehud (Judg. 3:12-20) and Samson (Judg. 13-16) involved apparently only Benjamin and Ephraim in the former case, and Dan and perhaps also Judah in the latter.¹²⁸ So, apart from the references to Othniel (Judg. 3: 7-11) and Shamgar (Judg. 3:31), about whom we have not sufficient information to enable us to say anything

126 It is true that in Judg. 11:29, just before the battle with the Ammonites, it is said that "the spirit of the Lord came upon Jephthah", but this is probably due to the wish to make the case of Jephthah conform with that of the other deliverers without regard for historical reality, cf. von Rad, Der heilige Krieg, p.24; Smend, Jahwekrieg und Stammesbund, pp. 38f.

127 cf. Irwin, op.cit., p.179. Soggin, op.cit., pp. 23ff, argues that Abimelech's kingship was on the pattern of the Canaanite city-states; but against this, cf. Y. Kaufmann, The Religion of Israel from its Beginnings to the Babylonian Exile, London 1961, p.253.

128 On the Samson stories as a later insertion into the already completed deuteronomistic edition of Judges, cf. Noth, Überlieferungsgeschichtliche Studien, p.61. The Samson stories are very old, however, going back before the migration of the Danites to their northern territory.

definite,¹²⁹ and Deborah and Barak, and the incident recorded in Judg. 19-21, which are still to be discussed, it is clear that the battles recounted in the Book of Judges were of strictly local significance and reveal nothing of any amphictyonic interest, not to mention participation, on the part of a wider circle of tribes.¹³⁰

In the final five chapters of the Books of Judges¹³¹ two events are recorded: in chapters 17-18 there is the story of the migration of the Danites from their first place of settlement in the south, to the north where they captured the city of Laish and established a sanctuary there presided over by a Levite whom they had lured away from the Ephraimite Micah. The second story, in chapters 19-21, tells of a crime committed by the men of Gibeah, a city of Benjamin, which led to a bloody battle between Benjamin and the rest of Israel.

129 On the former, cf. McKenzie, The World of the Judges, pp. 8f; and on the latter cf. Eissfeldt, "The Hebrew Kingdom", p.22; Albright, From the Stone Age to Christianity, p.283; and especially van Selms, "Judge Shamgar", VT 14, 1964, pp. 294ff.

130 So against von Rad, Der heilige Krieg, pp. 23, 25f., who argues that, although all twelve tribes never took part, the wars were still a reaction of the amphictyony.

131 On these chapters as post-deuteronomistic insertions, cf. Noth, Überlieferungsgeschichtliche Studien, p.54 n.2.

As a result, the tribe of Benjamin was decimated. However, in order to preserve the tribe wives were procured for the survivors, according to one tradition by raiding Jabesh-gilead (Judg. 21: 8-12), or, according to another tradition by carrying off the 'daughters of Shiloh' from the annual cultic festival which was being held there (Judg. 21: 16-24).¹³²

The prevalence of the words לְנָשִׁים and בָּתוֹת in Judg. 20, the latter of which is met with normally only in P, led Wellhausen¹³³ to doubt the possibility of reaching the historical truth of the story. Israel does not appear as a political community, but as a centralized, ecclesiastical assembly.¹³⁴ However, as we have already noted¹³⁵, Noth has denied the validity of this view and argues instead that this vocabulary derives from the amphictyony, and that the incident recorded here was in fact the intervention of the members of the amphictyony against a fellow-member for breach of the amphictyonic law - an incident which finds

132 On this festival, cf. above p. 46

133 Die Composition des Hexateuchs und der historischen Bücher des A.T., 1899, p.236; cf. also Moore, op. cit., p.405 : "The historical character of ch. 20; 21: 1-14 will scarcely be seriously maintained".

134 cf. also Smend, Jahwekrieg und Stämmebund, p.26, who follows Wellhausen in this and also points out that there is here a conception of the holy war different from that of the older accounts.

135 cf. above pp. 17, 48.

a parallel in Greek history.¹³⁶

Now, in order to examine this view, these chapters of Judges will have to be treated in some detail, from the point of view both of literary criticism and of tradition history.¹³⁷

First, in chapter 21, verses 15-23 should be separated as a distinct section of which only verse 22ab, and perhaps also verse 19b, seem to be secondary. This section may be an aetiological saga for some cultic custom at Shiloh, the details of which are no longer known to us. The first half of the chapter, verses 1-14a, also deals with supplying the Benjaminites with wives, but in these verses there appear to be two different versions. Verses 1, 6-8, 12, 13, tell how the men of Jabeshgilead were not bound by the oath to give no wives to the Benjaminites, and so they must surrender their unmarried girls in order to preserve that

136 Schunck, Benjamin, p. 64, suggests that if Judg. 20: 10 concerns the separation of a group of men, entrusted with a particular task, on the basis of the number ten, this possibly reflects the structure of a tribal federation consisting of ten tribes. Schunck has to include Benjamin within this group, which would imply Benjaminites taking part in the battle against Gibeah, which is completely out of context in this story. More likely the use of the number ten is simply a literary device. We meet this phenomenon again in Ex. 18: 21-25, according to which Moses divided the people on the basis of the number ten, and set judges over them in order to ease the burden on himself and to facilitate the administration of justice.

137 On the literary-critical side we follow mainly Noth, Das System, pp. 162-170.

tribe, while in verses 2-5, 9, 10aba, 14a it is recorded not only that the Israelites had sworn not to give their daughters as wives to the Benjaminites, but also that they had sworn to put to the ban that group which had not taken part in the war. Nobody from Jabesh had been there, and so a force was sent against that city, which, as well as killing the men of Jabesh, also captured their wives for the Benjaminites. These two versions are joined by the last words of verses of 10 and 11, and the whole section is joined to the Shiloh saga by means of verse 14b.¹³⁸ In both versions dealing with Jabesh we have aetiologial sagas explaining the particular connection

138 Schunck, Benjamin, pp. 59f., objects that with this analysis no account is taken of the fact that in both versions of the Jabesh story Mizpah still plays a part. So he holds that it is better to think here of extensions and overworking through redaction: vv. 1, 5, 8 are thus taken, without loss to the context, from their present position; they derive from the deuteronomist (R2) who, since he came from Mizpah, had a special interest in naming his home. This kind of thing is also evident in the books of Samuel. However, Schunck's explanation fails to reckon adequately with the double motif in the first fourteen verses of this chapter: on the one hand, there is Jabesh as the only place which is not under the oath; and on the otherhand, there is Jabesh as the only place which did not take part in the battle against Benjamin.

between Jabesh and Benjamin, a connection which is apparent also in the history of Saul.¹³⁹

Thus, in Judg. 21 there are three aetiological tales, all of which presuppose that a number of Benjaminite warriors survived the destruction, but that all the rest, especially the women, were killed. But this presupposition is not justified in chapters 19-20 where only Gibeah with all its army is destroyed.¹⁴⁰ So Judg. 21 must be taken as a secondary supplement to Judg. 19-20, in which different aetiological stories of indefinite origin are brought into connection with the expedition against Gibeah.

In Judg. 19-20 it is unlikely that there is any basis for the two-source theory. Instead, one must reckon with glosses and extensions in the text,¹⁴¹ and also with additions

139 cf. 1 Sam. 11: 1-10.

140 Judg. 20:48, which is the only verse alluding to complete destruction, is taken by Noth as an addition. Mizpah, lying on the way from Ephraim to Gibeah, may also have suffered, and Schunck, Benjamin, p.69 n.75, conjectures that the thin, poorly erected wall from Iron I at Mizpah, was destroyed at that time.

141 e.g. לְשֹׁמְרוֹתָם in Judg. 19:10 and לְשֹׁמְרוֹתָם in Judg. 19:22. In this case Schunck, Benjamin, pp.61f., finds that the criteria לְשֹׁמְרוֹתָם and לְשֹׁמְרוֹתָם are adequate for separating the Bethel story from an older basis. The Bethel story uses לְשֹׁמְרוֹתָם, which is an expression used regularly by R2 (the deuteronomist). Schunck concludes that the material taken up and overworked by R1 included 19: 1-30a (except for minor introductions by R2) as well as 20:2aa, 3b-6, 8-9aba, 10-13a, 17a, 20, 22, 24-25a, 29, 33, 36b-43, 45, 47-48; 21:1. However, one may question the validity of Schunck's criteria for, although the expression לְשֹׁמְרוֹתָם predominates in the verses mentioned, לְשֹׁמְרוֹתָם does occur in 19: 12, 30a; 20:3b, 24, 25a,

while the ~~JOHANNES~~ are also mentioned (20: 24, 48). Schunck's analysis, resulting in a basic tradition which has undergone four different redactions (Benjamin, pp.67f) involves a division of the text which is too fine and minute to be probable.

taken from other Old Testament stories.¹⁴² It is not clear where the gathering of the Israelites took place, but it is probably best to take Mizpah as primary, though this of course does not deny that the ark was at Bethel at this stage.¹⁴³

From this point it is now possible to go on to the question of the general interpretation of the story. And in this we find it impossible to follow Noth. In the first place his judgement that the incident concerned all Israel is open to serious question. It has already been noted¹⁴⁴ that references in the text of the Old Testament to all Israel or to all the tribes of Israel as in this narrative cannot be taken at their face value. But the only other reliable method which can be used to determine those involved in the action is to see which of the tribes are intimately involved in what can be reconstructed of the original narrative.

142. So Judg. 20:18, cf. Judg. 1:1. Perhaps also the description of the siege and capture of Gibeah in Judg. 20: 36b-41 has been derived from the story of the capture of Ai recounted in Josh. 8, cf. McKenzie, The World of the Judges, pp. 166f.

143 cf. also Irwin, op.cit., p.180. Zobel, op.cit., p.118 n.223 thinks that the sudden shift from Mizpah to Bethel in Judg. 20:18 shows clearly that Mizpah is a secondary insertion. However, the authenticity of of Judg.20:18, and thus also of v.26 which presupposes v.18, may be objected to on other grounds, cf. Noth, Das System, p.166. Danell, op.cit., p.72, argues that since 'weeping' is otherwise associated with Bethel (cf. Judg. 2:4f; Hos.12:4f), we must understand that it is really Bethel which is referred to in Judg.20:23. Schunck, Benjamin, p.67, on the other hand, thinks that Mizpah was brought in by R2 (the deuteronomist), and that Bethel was introduced in a third stage of redaction (a second deuteronomistic stage).

144 cf. above n.63

Thus, from the emphasis which is laid on the fact that both the Levite and also the man of Gibeah who took him in for the night came from Ephraim,¹⁴⁵ it can be concluded that here is a story which originally concerned, apart from the tribe of Benjamin, only the tribe of Ephraim.¹⁴⁶ So, apparently, the narrative originally recounted the revenge taken by Ephraim on Benjamin for an outrageous crime committed against an Ephraimite¹⁴⁷ without any part being

145 The Levite's connection with Bethlehem is only through his concubine: it does not imply that he himself came from there, cf. Noth, "The Background of Judges 17-18", Israel's Prophetic Heritage (J. Muilenburg Festschrift, edit. B.W. Anderson and W. Harrelson), London 1962, p.70 n.5. Even if he was only a גֵּר in Ephraim, the responsibility for his welfare would still lie with Ephraim.

146 In Judg. 20:1, Gilead is probably a secondary insertion, introduced in order to emphasize even more the absence of Jabesh-gilead from the event. Judg. 20:18 is out of place here. There is no further reference to Judah and the verse appears to be dependent on Judg. 1:1-2, cf. Noth, Das System, p.166. The all Israel, ecclesiastical tone of this story is striking, and this, combined with the fact that it is unique in this respect in the Book of Judges, and that it appears to have been omitted from the deuteronomic edition of the book, makes Noth's conjecture doubtful that גֵּר and גֵּרִי are words deriving from an old Israelite amphictyony. What is meant by $\text{וַיִּשְׁמְרוּ אֶת־הַגֵּרִים}$ in Judg. 20:2, is not clear. The phrase recurs in 1 Sam. 14:38. With the expression $\text{וַיִּשְׁמְרוּ אֶת־הַגֵּרִים}$, the existence of an Israelite amphictyony is not an essential presupposition in order to bring out its full meaning.

147. Just as David did to the Ammonite city of Rabbah after his messengers had been grossly insulted (2 Sam. 10; 11:1, 12: 26-31).

played by the other tribes.¹⁴⁸ This incident took place, evidently, towards the end of the 12th century B.C.¹⁴⁹

So, from our examination of the evidence so far put forward, we can only conclude that the Book of Judges accurately reflects the conditions of that period. There was no federation of twelve tribes in the form that has been suggested, nor is there any indication, apart from the Song of Deborah with which we have yet to deal, of any widespread alliance among the tribes for any purpose, political, military, or cultic.

(c) Proposed Reconstruction of the Period of the Judges

The rather negative picture painted so far, can, however, be supplemented by something more positive. While it is impossible to agree that Israel in the period of the judges was organized along the lines of the Greek amphictyonies of a later age, nevertheless it is possible to outline the

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- 148 For a possible interpretation of the story, cf. Additional Note I, below, pp. 118ff. It is already clear that we cannot agree to the parallel drawn by Noth, Das System, pp. 101f., between this event and an incident in the early history of the Amphisssa war. For one thing, evidently only Ephraim and Benjamin were involved, and for another there is no hint of an exclusion of Benjamin from any tribal federation.
- 149 Schunck, Benjamin, p. 69, arrives at a date c. 1100 B.C., working from both archaeology and the chronology of the high-priests, the latter of which Zobel, op.cit., p. 119, uses to get a date c. 1120 B.C..

nature of the divisions which separated the tribes and to trace at least one step in the process by which the tribes eventually came to form the nation. It is not, of course, implied that there was no 'community feeling' among the Israelites until the time of the foundation of the state. Such a view, as will be pointed out later, raises more problems than it solves. At the moment, all that is implied is that the period of the judges was for Israel a period of divisions in which, by force of circumstances, communal activity either in politics or in cult was impossible. This is the general picture presented by the Book of Judges, disregarding its present schematic framework, with the exception of one notable passage: the Song of Deborah. This Song stands out not only because it, or perhaps only part of it, is a very ancient piece of poetry, but also because it commemorates the only occasion known to us in the pre-monarchy period where it cannot be denied that a wide alliance of tribes took part in a concerted action, while it is also implied in the Song that there was no valid reason for the absence of even more tribes. Naturally, since the Song of Deborah is unique in this respect, it has been subjected to much attention over the past years, but in spite of this no generally agreed conclusions have been reached on many aspects of its significance. However, the questions which are most disputed are also, fortunately, those which concern us least here. But the two points which must be discussed are, first the situation out of which the Song arose, and, second, the date of the event commemorated in this Song.

It has been suggested that the Song of Deborah had a cultic Sitz im Leben in the sacral covenant renewal ceremony.¹⁵⁰

The Song is thus understood as a liturgical component of the festival in which the presence of Yahweh with the gathering of those taking part is presupposed. The phrase "to the gates" in Judg. 5: 11b refers, not to the gates of the places where the warriors lived, nor to the gates of the enemy cities, but to the gates of the place where the festival was celebrated, which may have been on Mt. Tabor. This mountain, as the meeting point of the borders of three tribes, Issachar, Naphtali and Zebulun, was the gathering place of the troops under Barak before the battle,¹⁵¹ and would thus have been the place to which they returned to celebrate their victory in the context of a covenant festival. In the following verses (Judg. 5: 12ff) there is a procession of the people of Yahweh which is initiated by a signal from Deborah;¹⁵² so the tribes mentioned in verses 14-17 are taken to be those represented at this cultic festival and those who absented themselves, not those who took part and those who avoided the battle

150 So Weiser, "Das Deborahlied", ZAW 71-72, 1959-60, p.73, following A. Bentzen, Introduction to the Old Testament, vol. 1, Copenhagen 1948, pp. 138ff. Weiser's view is followed by Schunck, Benjamin, p.52, and Beyerlin, Origins and History of the Oldest Sinaitic Traditions, (E.T. Oxford 1965), p.79

151 cf. Judg. 4: 6, 12, and above n. 125

152 This, according to Weiser, "Das Deborahlied", p.82, is the interpretation of $\gamma'w$ in v.12

against Sisera.¹⁵³ The account of the battle does not, according to this view, begin until verse 19, and is preceded in verse 18 by a statement of the only two tribes, Zebulun and Naphtali, which participated.

This view of the Song of Deborah has the definite advantage of providing an explanation for the repetition, in verse 18, of the tribes of Zebulun and Naphtali, and also of providing a suitable background for the dominating cultic theme of praise¹⁵⁴ which comes forward so strongly. However, besides resting on presuppositions which it is impossible

153 This interpretation is suggested to Weiser, *ibid.*, p. 92, by the fact that attendance at the festival would have been voluntary - hence the light reprimand on the tribes which did not turn up - while participation in the battle would have been obligatory. Absence from the battle would have been punished by the curse which Meroz suffered. Meroz is thus taken as a city of Zebulun or Naphtali, the only two tribes which, according to Weiser, took part in the battle. However, cf. Alt, "Meros", Kleine Schriften vol. 1, pp. 274ff., who conjectures that Meroz was a former Canaanite city which had been absorbed into Manasseh, cf. Nu. 26: 29ff; Josh. 17: 1ff; 1 Chr. 7: 14ff. The exact location of the city is not known, even if it is to be identified with the name Mrdhkj in the Egyptian Execration Texts of c. 1800 B.C. Danell, *op. cit.*, p.63, suggests that we should understand the tribe of Judah behind the name Meroz; but in support of this there is not a scrap of evidence. On Meroz, cf. also E. Täubler, *op.cit.*, pp. 193ff.

154 On this, cf. C. Westermann, The Praise of God in the Psalms (E.T. London 1966), pp. 22f., though the latter disapproves of the term 'cultic', and speaks instead simply of "the experience of God's intervention in history".

for us to accept here, this interpretation gives a rather 'blanket explanation' of the Song which is partly acceptable only for one particular stage, the final one, of the history of the Song, but which does not account satisfactorily for its origin and growth. The main presupposition is that the holy war was a function of a tribal federation or amphictyony, so that while the actual battle might be waged by one or two tribes the victory would be celebrated as a victory of the federation in the context of an amphictyonic covenant festival. But apart from the one very questionable example in the Song of Deborah there is no other evidence of this.¹⁵⁵ Furthermore, such an interpretation fails to take account of the diverse themes and aims which are apparent within the Song, and which make probable the view that the Song is not a uniform composition but has been subject to development and growth, like so much of the Old Testament.¹⁵⁶ Thus, in particular, it is to be noted that in distinction to the introduction to the Song, in Judg. 5:2-11, the Song itself beginning in verse 12 does not concern Yahweh; it is not thanksgiving

155 cf. also H.P. Müller, "Der Aufbau des Deborahliedes", VT 16, 1966, p. 453 n.3. Moreover, Weiser's criticism of the usual view that it is not said explicitly that the list of tribes in vv. 14-17 refers to the tribes which took part in the battle and those which stayed away, might well be applied to his own interpretation, and also it is difficult to see what precise place a procession such as Weiser proposes would have in a festival of covenant renewal.

156 On the following, cf. particularly, Müller, *op.cit.*, pp. 446ff.

to Yahweh. Rather, the kernel of the Song is concerned with praising the heroes of Israel who took part in the victory. It is an epic account of the battle which also praises and censures the participants and non-participants.¹⁵⁷

- 157 Against Weiser's interpretation (cf. above n.153), it is not at all certain that participation in the battle would have been obligatory. The situation presupposed by the Song has been compared by S. Nyström, Beduinentum und Jahwismus. Eine sociologisch-religionsgeschichtliche Untersuchung zum A.T., Lund 1946, pp. 45ff., with the relationship existing between a bedouin tribe and its sheikh. While questions of minor importance were brought to the sheikh for a decision, matters of general importance were the concern of the whole tribe, and not just the sheikh whose authority was by no means absolute. So Judg. 5: 2 is to be interpreted as praise to Yahweh because each individual tribe was willing to follow its leader (the sheikh) to battle. However, the families of the tribe of Reuben, for example, were not willing to take part. The people had the option of refusing and in doing so they needed fear no reprisals. It is also possible that Nyström, op.cit., pp. 53f., has given the correct interpretation of the enigmatic v.12 עַיִר עֹרֵי דְבוֹרָה עֹרֵי עֲרֵי דְבָרִי-שִׁיר. Against Weiser (cf. above 152) it may be that this should again be paralleled with the customs of the bedouin who, in war, used not only weapons but also the help of magical sayings. The author of these was a participant in the battle just as important as the fighter. While Barak commanded the warriors in the battle, Deborah was called upon to sing her song, the magical power of which should bring about the defeat of the enemy. This may be compared with the part played by Moses in the battle with Amalek, cf. Ex. 17: 8-13; cf. also M.S. Seale, "Deborah's Ode and the Ancient Arabian Qasida", JBL 81, 1962, pp. 343-347; J. Gray, "The Desert Sojourn of the Hebrews and the Sinai-Horeb Tradition", VT 4, 1954, p.152 n.1.

On the other hand, Judg. 5: 2-11 is of a quite different tone. Here it is Yahweh who is praised, it is Yahweh to whom thanks are due for the victory. These verses are clearly in the style of the psalms of praise,¹⁵⁸ and so belong to a different setting from the epic account of the battle in Judg. 5: 12ff. Thus, it should be concluded that the present Song of Deborah originated as such an epic, now to be found in verses 12ff., recounting the battle and also imparting praise and blame to the combatants and non-combatants,¹⁵⁹ while at a later stage the Song was taken up into a cultic setting and edited to form a hymn of praise to Yahweh.

158 For the comparison, cf. Müller, pp. 453ff., who also argues that there was a double 'Yahwistic editing' of the Song which resulted in two introductions in vv. 2f., and vv. 9-11, v.31a is taken as belonging to the later editing (ibid., p.457)

159 Weiser argues that only by accepting his view can we understand the emphasis which is placed in v.18 on the courage of Zebulun and Naphtali. However, there may well have been circumstances, of which we are not fully aware, such as the subjection of Zebulun and Naphtali to Canaanite overlords (which Schunck, Benjamin, p.28, conjectures for an earlier period), which made their participation in the battle especially worthy of note. On the other hand, there is also a strong possibility that v.18 formed no original part of the Song of Deborah, but referred to an earlier battle of Zebulun and Naphtali under the leadership of Barak against Jabin king of Hazor, cf. Zobel, op. cit., pp. 51f., who takes v.18 as a tribal saying of the type found in Gen. 49. This earlier battle, which archaeological evidence on the destruction of Hazor places at c.1200 B.C., is recounted in Josh.11, and in Judg. 4 where it is also fused with an account of the battle against Sisera. If this is true it means that the tribe of Naphtali is not mentioned at all in the Song; but Zobel argues that Naphtali should be read for the second Issachar in Judg. 5:15, cf. also Mowinckel, "'Rahelestämme' und 'Leastämme'", p.137 n.15

Where this editing took place is not certain, but it was most probably at the sanctuary of Mt. Tabor that the Song found its cultic setting.¹⁶⁰

The date which is to be assigned to the event commemorated in this Song is an important question from our point of view. For if it can be shown that this successful combined operation of a number of Israelite tribes took place at an early stage in the period of the judges, then there is here decisive evidence of the existence of a federation which could, if it wished, act in unity relatively unhindered by the circumstances of their settlement.

Now, it is in fact argued by many scholars that the defeat of Sisera by the Israelite tribes took place in the second half of the 12th century B.C., at about 1125 B.C.¹⁶¹

160 On the significance of the sanctuary on Mt. Tabor, cf. above n.125. This significance is perhaps further attested by Deut.33:19. Zobel, op.cit., p.84, suggests that Tabor became the gathering place of the Shiloh community after the destruction of Shiloh by the Philistines, and he follows Kraus, Psalmen, BK 15, Neukirchen 1961, p.471, in finding cult tradition of the Tabor sanctuary in the kernal of Ps.68. This idea is attractive, especially in view of the evident popularity of Tabor in the later period, cf. Hos. 5:1. Müller, op.cit., pp.458f., thinks Jerusalem was the sanctuary where the Song of Deborah had its cultic Sitz im Leben. But it seems to be that what little evidence exists is more in favour of Tabor.

161 This view goes back to Albright, "Further Light on the History of Israel from Lachish and Megiddo", BASOR 68, 1937, p.25, and is followed, eg. by Bright, History, p.157; cf. also N.H.Snaith, "The Historical Books", The Old Testament and Modern Study (edit. H.H. Rowley), Oxford Paperbacks 1961, pp. 94f.

This date was arrived at through an attempted correlation of archaeological and literary evidence. It was held that the words in Judg. 5: 19 "at Taanach by the waters of Megiddo" imply that Megiddo itself was unoccupied at that time. Otherwise, one would have expected the battle to be located by reference to Megiddo rather than to the much less significant place Taanach. On the other hand, archaeological investigation was held to show that a decisive break in the occupation of Megiddo lay between strata VII and VI, i.e. between 1150 B.C. and 1075 B.C. and so the battle must have taken place sometime within these dates. Furthermore, it was also held that the subsequent settlement of the city was an Israelite one.¹⁶² However, quite apart from the fact that it is clearly a matter of dispute whether the break in occupation of Megiddo lies between strata VII and VI, or between VI and V¹⁶³, the general validity of the argument outlined above

162 Albright, *ibid.*

163 It has been argued by J.J. Simons, "Caesurae in the History of Megiddo", Oudtestamentische Studiën 1942, pp. 17-54, that "from the ceramic point of view stratum VI is a direct and immediate continuation of stratum VII", and that it was after the city of stratum VI was destroyed in a great fire, perhaps accompanied by an earthquake, that the site was deserted and remained derelict for about fifty years (*ibid.*, pp.46f). Thus, it was with stratum V, belonging in the middle of the 11th cent. B.C., that there was a completely new settlement of Megiddo, "by a people with entirely new ideas" (*ibid.*, p.52), whom Simons conjectures to have been Philistine. The new settlement in stratum IV is taken by Simons to have been the first Israelite settlement there. With regard to the time of the gap in occupation of the city, Simons

Note 163 continued

is followed by Alt, "Megiddo im Übergang vom kanaanäischen zum israelitischen Zeitalter", Kleine Schriften vol. 1, pp. 256f. Megiddo V, however he takes (ibid., pp. 269ff) as a Canaanite settlement. Albright retracted his original view for a time, but then later, "The Biblical Period", The Jews, Their History, Culture and Religion (edit. L. Finkelstein), New York 1949, pp. 20, 58 n.52, dismissed the argument of Simons and returned to his original view that there was a "much more complete and more protracted" break between strata VII and VI than between strata VI and V. Here also Albright reaffirmed the dating of the Song of Deborah to c. 1125 B.C. on the basis of this archaeological study, cf. also idem, "The Old Testament and the Archaeology of Palestine", The Old Testament and Modern Study, p.13. However, most recently, we find Schunck, Benjamin, p.51, taking the gap in occupation as lying between strata VI and V, cf. also H.J. Franken and C.A. Franken-Battershill, A Primer of Old Testament Archaeology, Leiden 1963, p.154. As for Albright's view that Megiddo VI was an Israelite settlement, this is founded on the presence of Israelite pottery in Megiddo VI. However, similar pieces have also been found in Megiddo VII, and anyway their presence does not necessarily attest a change in government of the city, but rather simply outside influence, cf. Alt, "Megiddo im Übergang", pp. 264f., who thinks of the tribe of Issachar in this connection. Furthermore, an Israelite settlement of Megiddo at this period contradicts the biblical tradition, cf. Judg. 1: 27f., according to which the Canaanites continued to inhabit the city, although eventually they were subjected to forced labour.

is highly suspect. It implies that Megiddo, through being unoccupied, had become so insignificant that an event taking place in its vicinity had to be located by reference to another place, Taanach, some five miles away to the south-east. But even if Megiddo lay derelict for over fifty years it is highly unlikely, in view especially of its important commanding position overlooking the plain of Esdraelon, that its fame would have so completely died out. And, anyway, it is to be noted that Taanach itself is located by reference to the "waters of Migiddo". It appears far more likely that the words of the Song should be taken for what they say. The battle took place at Taanach by the waters of Megiddo, not at Megiddo itself, and the words neither imply nor preclude Megiddo being occupied at that time. It is impossible to conclude from the Song that Megiddo was unoccupied at the time of the battle against Sisera, and therefore archaeology has no such direct bearing whatever on the date of this battle.¹⁶⁴

Apart from the observation that the Song probably presupposes a time when the tribe of Dan had migrated to its

164 This would also be the case even if Megiddo VI were an Israelite settlement; cf. also Alt, "Erwägungen über die Landnahme der Israeliten in Palästina", Kleine Schriften vol. 1, p.161 n.2; idem, "Megiddo im Übergang", p. 266 n.2.

final place of settlement in the north,¹⁶⁵ there exist really no datable historical allusions in the Song which would enable us to put the battle within its proper context.

- 165 The reference in v. 17 to Dan abiding with the ships would suit better the supposition that Dan was now living in the neighbourhood of Lake Huleh rather than that it was still occupying its former settlement to the west of Jerusalem on the border with the Philistines, cf. Mowinckel, "'Rahelstämme' und 'Leastämme'", p. 137 and n.16. Zobel, op. cit., p.50, however, argues that the ships referred to were the great ocean-going trade or warships, and that מִלִּי in v.17 indicates that they were foreign ones in which Dan served. But even if this is the case, it is best to understand Dan as living in the north where access to the sea would not be obstructed by the presence of the Philistines. On the whole question, cf. Rowley, From Joseph to Joshua, pp. 81ff. One could also perhaps say that the action of Jael would not have been condoned, let alone praised, at a time when the nomadic laws of hospitality would still have been fresh in the minds of the new settlers. For this, cf. Nyström, op. cit., pp. 15ff., 29ff., with reference to Gen. 19: 8; Judg. 19:23, and other illustrations; and on the conflict between the 'bedouin ideal' and the 'Yahwistic ideal', which he finds to be clear in this action of Jael, cf. *ibid.*, pp. 109; cf. also R. de Vaux, Ancient Israel (E.T. London 1961), p.10; Smend, Jahwekrieg und Stämmebund, p.16. However, the precise value of both these observations is somewhat complicated by the complex and gradual nature of the Israelite settlement in Palestine.

However, a historical context can be proposed which has a good measure of probability in its favour. But first some preliminary points must be made. The battle against Sisera commemorated in the Song of Deborah stands at present in an isolated position. It has no cause and it has no effect. At present we know neither the conditions which led up to it, nor the conditions which resulted from it. As it now stands it poses innumerable questions and problems. Now, if a possible context for this battle can be proposed, which would provide a background for it and/or a set of historical circumstances which can otherwise not be explained apart from the supposition that such a battle as that against Sisera had taken place, then it is more than reasonable to suppose that the battle should be taken as belonging in that historical context, even though such a supposition cannot be finally proved. With this in view, it may be observed, firstly, that this event was one in which a number of Israelite tribes were involved. There is otherwise no evidence of such a concerted action on the part of so many tribes in this early period. This is immediate indication that the Song of Deborah celebrates an event which took place when the tribes had come to realize that their future existence and prosperity were dependent on their acting together. In fact, the event could be regarded as the link between the old way of each tribe defending itself and the new way of Israel acting as a unit under Saul. This consideration would give support to a fairly late date in the period of the judges for the victory over Sisera. However, for the

strongest evidence that the victory over Sisera took place towards the end of the period of the judges, reference must be made to part of 1 Sam. 4: 1, "Now Israel went out to battle against the Philistines; they encamped at Ebenezer and the Philistines encamped at Aphek". Thereupon, a battle took place in which Israel was roundly defeated. A second battle ensued, however, in preparation for which the Israelites had brought into the camp the ark of the covenant. Possibly along with the ark there came reinforcements from other Israelite tribes. At any rate, Israel was again defeated and her forces routed. The sanctuary at Shiloh was apparently destroyed on this occasion, and Israel was put in subjection to the Philistines. It was out of this situation of subjection and oppression that the new deliverer, Saul, arose and was eventually made king. However, even if this is what happened it still does not answer the whole question. Nothing is said of the situation which led up to the battle; we do not yet know what the motivating forces and desires of one, or perhaps both, of the combatants were which finally resulted in war. Now, to discover the background to this conflict there are two ways of approach. The first of these is through an examination of the change brought about by the Philistines when they settled on the political geography of the country, and the effect this would have had on relations among the different inhabitants of the land.

166 For this cf. Alt, "The Formation of the Israelite State in Palestine", pp. 173ff, 180ff.

The Philistines settled eventually in the five city-states of Gaza, Ashdod, Ashkelon, Ekron and Gath; but, in distinction to the earlier time when each member city of the city-state system of the plains was totally independent, governing its own small province, the Philistines even after settlement continued to act as a unit, so that their five city-states would have presented a formidable force in the Palestine of their day. In contrast to this, the Israelites, whose settlement was at first confined to the mountain areas, retained their loose, political tribal organization. They would thus have appeared as an easy and enticing target for Philistine hopes of expansion, and it would thus have been the Philistine desire to assert their superiority over, and reap the benefits from, the mountain areas which contributed to the battle at Aphek recounted in 1 Sam. 4. But this cannot be the whole story. The battle at Aphek took place towards the end of the 11th century B.C.,¹⁶⁷ whereas the Philistines had entered Palestine in the middle of the 12th century.

167 We here follow Noth, History, p.165, rather than Bright, History, p. 165, who puts the battle about 1050 B.C. The question seems to hinge partly at least, on the problem of the length of Saul's reign. But the duration of two years given in 1 Sam. 13: 1 should probably be taken as reliable, cf. Noth, Überlieferungsgeschichtliche Studien, pp. 24f; and Albright, "The Old Testament and the Archaeology of Palestine", p. 12 n.3, who admits the probability that the date of 1050 B.C. should be somewhat lowered

If it was only Philistine desire for superiority that lay behind the battle at Aphek, then it is necessary to explain why they waited **for** over a century to assert this superiority. Moreover, it would also be strange **that** the battle took place at Aphek, which lay about **fifteen** miles north of the most northerly of the Philistine city-states (Gath), rather than at some place more directly east of the area which the Philistines had settled. The latter would have been the more logical if only Philistine aspirations for control of the mountains lay behind this battle. Thus, while it is possible that such a desire did play a part in the event, this cannot be seen as the main motivating force at this particular time and in this particular place.

The battle at Aphek must, in fact, have as its background historical circumstances in which Israel was felt to constitute a threat to the Philistines either directly or indirectly. And this in turn could only have its basis in the appearance of Israelite tribes in the plains of Palestine. It is probably the case that border skirmishes, such as those illustrated in the story of Samson, had taken place throughout this early time, but we know of only one major advance of Israelite tribes into the plain which is sufficient to account for what took place at Aphek, and which also would have drawn the Philistines to the north of their own city-states, and that is the battle against Sisera commemorated in the Song of Deborah. Not only does the victory over Sisera supply an eminently suitable background for the battle at Aphek, but it is

likewise true that the battle at Aphek supplies an eminently suitable sequel to the victory over Sisera. It is this circumstance which makes highly probable the view that these two events should be seen in close connection, that the battle at Aphek should be seen as a direct result of the threat generated by Israel's victory over Sisera. Moreover, this proposal is not wholly without some support; it is made even more likely by the fact that the name Sisera is a non-Semitic one, and probably belongs among the Sea Peoples who entered the land with the Philistines.¹⁶⁸ This, coupled with the further observation that dominion in the plains, even after Israel had defeated Sisera, was hardly likely to remain undisputed, especially if Megiddo remained in the hands of the Canaanites,¹⁶⁹ lends strength

168 cf. Alt, "Megiddo im Übergang", p.266 n.3; Graham and May, Culture and Conscience, Chicago 1936, p.150.

169 cf. above n.163. After I had concluded that these two events should be placed in conjunction, my attention was drawn to Alt's essay, "Megiddo im Übergang vom kanaanäischen zum israelitischen Zeitalter", where the author made the same proposal in 1944. However, Alt's view apparently rests mainly on an attempted reconstruction of the chronology of the pre-Sisera period in relation to this area of Palestine. Thus he argues that Shamgar, mentioned in Judg. 3:31; 5:6, was a member of an old Canaanite ruling family who governed a large area of Palestine extending from the lower Galilean hill-country to the south-western part of the Plain of Megiddo, and who opposed the Philistines when they attempted to expand into the Plain of Megiddo in the second half of the 12th cent. B.C. (ibid., pp. 261ff). On the other hand, the appearance of Sisera at the head of a coalition of Canaanite kings, signifies a great shift of power compared with the situation under Shamgar. Now a Philistine, or a leader related to

Note 169 continued

them, was at the head of a federation of native kings against the Israelites. This would bring the time of the battle against Sisera down into the 11th century, especially if, as is possible, Jabin king of Hazor succeeded Shamgar before Sisera as leader in this part of Palestine (ibid., p.267 n.1, p.270 n.3). A date in the 11th century for the battle against Sisera would also suit, according to Alt, the fact that Issachar appears as an independent tribe in the Song of Deborah; for Issachar regained its freedom only after the destruction of Megiddo VI at the time of the turn of the 12th to the 11th century B.C. (ibid., pp. 265f). However, if our view of the structure of the Song of Deborah is correct, then the first point made by Alt is unreliable. The Shamgar tradition may not originally have belonged to the Song of Deborah and therefore the basis is removed both for dating Shamgar earlier than Sisera and for fixing the area over which Shamgar had control. Further, with regard to the tribe of Issachar regaining its freedom, even if this tribe was in a state of servitude to Megiddo, this could have come to an end any time from the middle of the 12th century on, when Megiddo greatly declined in strength (cf. Alt, ibid., pp. 258f). However, in spite of this, it is strange that so little attention has been paid to Alt's view, especially in a standard history work like that of Bright where the battle against Sisera is again dated c.1125 B.C. on the basis of archaeology (History, p.157).

to the supposition that, having defeated a Canaanite (Philistine) coalition led by Sisera, Israel was very shortly afterwards met in battle and defeated by the Philistines at Aphek.

Thus, we would argue here that the victory of the Israelite tribes over Sisera should be dated shortly before Israel's defeat by the Philistines at Aphek, sometime in the course of the second half of the 11th century B.C.,¹⁷⁰ and since this is the earliest time for which we have reliable evidence of a concerted action by a number of the Israelite tribes, it is legitimate to see in the battle against Sisera a stage in the course of transition by which the Israelite tribes progressed from acting as independent units to employing their combined strength in time of battle.

However, our examination of the Song of Deborah cannot end at this point.

170 It may strike one as strange that this victory of the Israelites could be so celebrated in song if it had the more or less direct result in Israel's defeat by the Philistines. However, this difficulty would immediately be eased if the (so far as I can see) so far unfounded supposition is set aside that the Song was composed immediately after the event described in it, cf. P.R. Ackroyd, "The Composition of the Song of Deborah", VT 2, 1952, pp. 160-162, where it is enunciated, apparently as a general principle, that "a period of about a century appears to lie between the events and the fully formed poetic version of the story". This, together with the realization that Israel was evidently also capable of celebrating even Canaanite defeats of the Philistines (as with Shamgar), would remove any difficulty in seeing how the victory over Sisera could be so celebrated, even though this victory eventually culminated in ignominious defeat for Israel.

For, of the twelve Israelite tribes which are mentioned in the tribal lists, only ten are referred to in the Song of Deborah. The tribes of Judah and Simeon¹⁷¹ are not noticed. On the basis of this, it has been proposed¹⁷² that the Song presupposes the existence of a ten tribe amphictyony, while against this it is objected that no conclusions can be drawn from the Song on the existence or otherwise of an Israelite amphictyony.¹⁷³

171 Since Simeon had been absorbed into Judah at this time (cf. above, pp. 29f.), we will simply speak of Judah in this connection in what follows.

172 cf. Mowinckel, Zur Frage nach dokumentarischen Quellen in Josua 13-19, p.21; idem, "'Rahelstämme' und 'Leastämme'", p.137; cf. also Weiser, "Das Deborahlied", p.96, who is followed by Schunck, Benjamin, pp. 52f. It is also argued by E. Auerbach, Wüste und gelobtes Land, Berlin, 1936, pp. 113f., that the poet in the Song of Deborah intended to give a full list of those tribes reckoned as Israelite.

173 cf. Noth, Das System, p.5; idem, "Überlieferungs-geschichtliches zur zweiten Hälfte des Josuabuches", p.163 n.7. Noth maintains that it still remains to be proved that the poet intended to produce systematically and in full number the total of the tribes belonging to the federation. As an indication of the free choice which the poet exercised in his selection Noth points to the use of the name of a district (Gilead in v.17) in order to denote the tribe or tribes living there (Das System, p. 36 and n.1). However, in view of the references to 'Jephthah the Gileadite' (Judg. 11: 1) and the 'elders of Gilead' (Judg. 11:7, cf. the 'elders of Judah' in 1 Sam. 30:26), it is still doubtful whether Gilead in Judg. 5: 17 is used as a tribal or as a district name, cf. also Zobel, op. cit., pp. 50, 97f.

Now it certainly is significant that the Song of Deborah is silent about Judah. The mere absence of the tribe from the battle against Sisera is not sufficient to account for this in view of the fact that four other tribes which stayed away are censured. The tribes referred to were obviously expected to participate, and so those who came out to join Deborah and Barak are praised, while those who did not are reprimanded. So Judah cannot have been expected to take an active part. To explain this there are apparently two possible reasons, which are not, however, mutually exclusive. On the one hand, the tribes which are mentioned may have constituted some sort of federation in which Judah was not included. On the other hand, there may have existed historical conditions which made it impossible for Judah to join the northern tribes, and this state of affairs was recognized by those tribes.¹⁷⁴

174 Zobel, *op.cit.*, p.76, suggests that the reason for the silence of the Song of Deborah on Judah is to be found in Judah's arrogant claims to be considered as leader of the tribes which are reflected in Gen. 49: 10-12 (which are dated by Zobel to the period immediately following the battle against Sisera). However, there is no other evidence of such an attitude on the part of Judah in this early period, and since the date of these verses is far from undisputed, it seems best to place them in a period which would form a suitable historical context, i.e. the early monarchy period, cf. above n.36.

What has been said hitherto would, however, militate against the idea of there having existed a ten tribe federation or amphictyony as the background to the Song of Deborah. This is not to say that the tribes which later formed the nation were wholly distinct, different and independent, for it is certainly improbable that it was the monarchy alone which was responsible for creating a bond of unity among the tribes. Rather, the monarchy presupposes the existence of an Israelite consciousness on which it could build a structure which in itself did not constitute Israel.¹⁷⁵ It is unlikely that the monarchy, which was never, except perhaps in the case of Saul, a united monarchy, but rather a dual monarchy united in the person of the king, and that only during the reigns of David and Solomon, would have been able to form out of nothing an Israelite consciousness which would persist even after the disruption of that monarchy.¹⁷⁶ Thus, the tribes of Israel must have been conscious of a unity in the pre-monarchy period.

175 On this, cf. especially Alt, "The Formation of the Israelite State in Palestine" and "The Monarchy in the Kingdoms of Israel and Judah", Essays on Old Testament History and Religion, pp. 173ff, 241ff. respectively.

176 In addition to the works of Alt mentioned in the preceding note, cf. also Smend, "Gehörte Juda zum vorstaatlichen Israel?", pp. 59f., who points to the revolts against David deriving from the north, which would have hindered the formation at this time of any such 'all Israel' idea.

But, the view argued for here is that this unity did not, in the period of the judges, find concrete expression, in an amphictyony or any other sort of federation of all or most of the Israelite tribes. There is no indication of such a federation, and indeed the evidence we have from this period speaks strongly against any such idea. Thus, it would seem inappropriate to argue for the existence of a ten tribe federation from which Judah was excluded, simply on the basis of the Song of Deborah which, after all, apparently derives from the latest judges period.

The other possibility of explaining the silence of the Song of Deborah on Judah is that it was recognised that it was quite impossible for Judah to participate in the battle against Sisera, impossible not because Judah was excluded from any tribal federation, nor necessarily because of any ideological difference between Judah and the others, or rivalry between them on the question of leadership, but simply because the historical and geographical conditions of the time separated Judah from the remaining tribes in the north.¹⁷⁷ This explanation of the silence of the Song of Deborah on Judah is strongly supported by two considerations: in the first place, the settlement of the

177 cf. Meyer, Die Israeliten und ihre Nachbarstämme, pp.75, 232f; Alt, "The Settlement of the Israelites in Palestine", pp. 166f; Smend, Jahwekrieg und Stammesbund, p.17; Rowley, From Joseph to Joshua, p.103; Irwin, op.cit., p.179; Voegelin, op.cit., pp. 201f; Schunck, Benjamin, p.72 n.89; and, further, S.Herrmann, "Das Werden Israels", ThLZ 87, 1962, col. 569.

tribes which went to make up Judah apparently took place directly from the south.¹⁷⁸ The Judean tribes did not enter the land by crossing the Jordan from the east along with one or more of the other tribes. Rather, they migrated into the hill country south of Jerusalem directly from the south, and settled independently of the movements of the other tribes. A second point to be considered is that the Old Testament tradition offers good enough reason for Judah's subsequent enforced isolation from the north. In Judg. 1:34ff., reference is made to places unconquered by the tribes on their entry. These include Har-heres,¹⁷⁹ Aijalon and Shaalbim, which are said to have continued as "Amorite"¹⁸⁰ abodes, while we know from elsewhere that both Gezer and Jerusalem also remained in foreign hands

- 178 cf. Judg. 1:1ff., 16ff; Nu. 13-14 and further, third chapter, below, pp.378ff. cf. also Meyer, op.cit. pp. 76ff, 248
- 179 The location of this site is not known, but perhaps since 𐤅𐤓𐤍 apparently means 'sun', it is to be identified with Beth-shemesh, lying somewhat south of Shaalbim and Aijalon, cf. BDB, s.v. 𐤅𐤓𐤍 II
- 180 For the use of the term 'Amorite' instead of Canaanite here, cf. Noth, "Der Gebrauch von 𐤅𐤓𐤍 im A.T.", ZAW 17, 1940/41, p. 185; idem, Die Ursprünge des alten Israel im Lichte neuer Quellen (Arbeitsgemeinschaft für Forschung des Landes Nordrhein-Westfalen. Heft 94), Köln und Opladen 1961, p.27. For the suggestion that 'Philistines' should be read for 'Amorites' in Judg. 1: 34, cf. reference in Rowley, From Joseph to Joshua, p. 84 n.2.

until the monarchy period.¹⁸¹ Thus, there existed between Judah and its northern neighbours an unconquered belt of land still controlled by the Canaanites, which would effectively have prevented Judah from sending a contingent to take part in the battle against Sisera.¹⁸² It is probably this situation which was recognized, and therefore no relevant reference could be made to Judah in the context of the Song of Deborah.

We have argued in this chapter that the theory that Israel in the period of the judges was constituted in the form of an amphictyony, on the pattern of the later Greek amphictyonies, is insufficiently founded.

181 On Gezer, cf. Judg. 1:29, 1 Kings 9: 16. According to Judg. 1:8, the men of Judah captured Jerusalem, but in view of v.21 of the same chapter, and since Judg. 19: 10ff presents Jerusalem as a still Jebusite city, it is best to see Judg. 1:8 as a reflection of conditions during and after the time of David whose capture of the city is related in 2 Sam. 5:6ff.

182 If Deut. 33:7 derives from the pre-monarchy period it would harmonize well with the conditions outlined here. This verse would express the desire of Judah, now separated from the other tribes, to be brought into contact with them. The immediately following reference to the 'adversaries' would then probably mean the inhabitants of those city-states which cut Judah off from access to the north; cf. above n.36.

The evidence against such a theory far outweighs the evidence in favour of it, and it is put forward here that the picture presented in the Book of Judges is accurate in showing a disunited collection of tribes which had little in common apart from their worship of the same God, Yahweh. There was no common, central sanctuary to which these tribes, or their representatives, repaired at regular intervals to participate in common worship. Instead, there was a multiplicity of sanctuaries, and no one of them can be said to have surpassed the others in claiming a particular allegiance from all the tribes. It may be, indeed, that the deposit of the ark at a certain sanctuary, exalted that sanctuary above the others for the duration of its possession of the ark, and for this reason that sanctuary may have formed the object of pilgrimage from outside the territory of the tribe in which it lay. But it is a far cry from this to the view that the sanctuary in possession of the ark was a central sanctuary for all twelve tribes, at which regular festivals were celebrated, and which the tribes were responsible to maintain each for one month in the year. Rather, it is much preferable to believe that the sanctuaries of which we read in the Old Testament had their own fame and their own allegiance within the tribal area in which they lay, and it is probably a distortion of the actual circumstances to say that any one sanctuary eclipsed the others for a longer or shorter period. It is more probably the case that it is due to the nature and provenance of the Old Testament traditions

of the period that one sanctuary may appear to occupy something more than the local significance which it most likely had. Thus, for the service of the mid-Palestinian tribes there were the sanctuaries at Gilgal, Shechem, Bethel, Shiloh and perhaps also Mizpah. For the tribes living farther north there is less information, but the tradition tells of one sanctuary for that group, that on Mt. Tabor, lying on the border of Zebulun, Naphtali and Issachar. The importance of this sanctuary cannot be denied simply on the basis of the fact that comparatively little of its tradition is preserved in the Old Testament.¹⁸³ The belt of unconquered city-states separating Judah from the north has already been mentioned. But it should be noted that Judg. 1 also tells of a similar series of foreign city-states straddling the northern part of the country, just south of Mt. Tabor, from Dor on the coast, through Megiddo, Taanach and Ibleam to Bethshean situated near the Jordan.¹⁸⁴ It is clear from the Song of Deborah that these city-states did not isolate the northern tribes right until the period of the monarchy, but it is likely that they did constitute an effective dividing influence at least until the decline of Megiddo during the second half of the 12th century,¹⁸⁵

183 On Tabor, cf. above notes 125, 160, and Kraus, Worship in Israel, pp. 165ff.

184 Judg. 1: 27ff. According to Alt, "The Settlement of the Israelites in Palestine", p. 167, Shunem would also have belonged to this system of city-states originally, but was destroyed at the time of Amenophis III by Labaya, and was not restored. This enabled the tribe of Issachar to settle in the area of Shunem and Jezreel though still, apparently, at the cost of its political independence.

185 cf. above, n. 169

and indeed it may be that the destruction of the power of these city-states in separating the tribes was one of the motivating forces behind the battle against Sisera. Thus, the tribes living to the north of the mid-Palestinian region may have themselves formed a separate group until late in the 11th century B.C. with its own sanctuaries, one of which was on Mt. Tabor. For Judah, on the other hand, there was the famous sanctuary of Mamre by the Calebite city Hebron, which has particular associations with Abraham¹⁸⁶, while the Transjordanian tribes may also have had their own sanctuaries.¹⁸⁷

186 The importance of Hebron/Mamre for the southern tribes, and particularly in connection with the Abraham tradition, has long been recognized; cf. especially, Clements, Abraham and David, Genesis 15 and its Meaning for Israelite Tradition (SBT Second Series 5), London, 1967, pp. 25ff., and the references there given.

187 Josh. 22 tells of the establishment of such a sanctuary in Transjordan, but the story is late and it is uncertain if it is in any way historically reliable in the matter at issue here. According to J.L. McKenzie, The World of the Judges, p.7., the chapter "approaches midrash; it is a priestly narrative stating the law of the unity of the sanctuary"; but cf. Wildberger Jahwes Eigentumsvolk, p.68, who thinks that the chapter may have a historical basis.

Before closing this chapter one final point should be mentioned. It has been argued¹⁸⁸ that the unity of the Israelite tribes under Saul demands the supposition of an earlier active unity of the tribes, since the Philistine war would not have been sufficient to effect such a bond, especially among the Transjordanian and Galilean tribes which were not directly affected by it. Thus the monarchy is taken to be understandable only on the basis of the prior existence of some sort of amphictyony. However, as far as the Transjordanian and Galilean tribes are concerned, their loyalty to Saul does not necessarily demand any such understanding. The battle with the Philistines was not the only one undertaken by Saul: on the one hand, his defeat of the Ammonites who had besieged Jabesh-gilead¹⁸⁹ would have won for him the support of the tribes in east Jordan; on the other hand, the allegiance of at least some of the Galilean tribes can be explained on the basis of their previous experience of success in the united operation under Deborah and Barak, while to the remainder the potential threat posed by the subsequent Philistine expansion and destruction of Shiloh would have been persuasion enough. However, difficulty arises when it comes to determining the position of Judah in the time of Saul. Thus, it is sometimes argued that it is far from certain that Judah formed part of Saul's

188 cf. Noth, Das System, pp. 62f.

189 cf. 1 Sam. 11. It is probably this event which should be taken as the genuine historical background to Saul's election to the monarchy, cf. Noth, History, pp. 168ff.

kingdom, but that 2 Sam. 2: 9, where Gilead, Asher, Jezreel, Ephraim and Benjamin are specifically mentioned as the territory over which Saul's son Ishbosheth was made king, should be taken as giving the true extent also of the kingdom of Saul.¹⁹⁰ However, the evidence is strongly against any such general assertion on the basis of this verse. There is abundant indication that at least during some part of Saul's reign Judah formed part of his kingdom.¹⁹¹ In particular, there is the expedition which Saul undertook against the Amalekites living to the south of Judah. This necessarily involved passing through Judah where, in the area of Carmel to the south of Hebron, Saul afterwards erected a victory stele.¹⁹² Probably the battle was undertaken in the first place for the relief of Judah. Furthermore, the fact that David, a Judean, feared for the safety of his parents in Judah after his break with Saul,¹⁹³ and the fact that he himself was eventually forced to flee to the Philistines,¹⁹⁴ and also the fact that he

190 cf. Herrmann, op.cit., col. 570; E. Sellin, "Zu dem Judasspruch im Jakobssegen Gen. 49: 8-12 und im Mosesegen Deut. 33:7", ZAW 60, 1944, p.66 n.1; Alt, "The Formation of the Israelite State in Palestine", p.191 n.47, p.216 and n.111.

191 cf. especially Schunck, Benjamin, pp. 124ff., Eissfeldt, "The Hebrew Kingdom", pp. 39f.

192 1 Sam. 15:12. This point presupposes that the narrative reflects an actual campaign undertaken by Saul against the Amalekites. On this, however, there is not general agreement, cf. Soggin, Das Königtum in Israel, pp.55ff, with references. However, the general validity of the above argument is not unduly affected by this question.

193 1 Sam. 22: 3ff.

194 1 Sam. 27: 1.

was considered by Saul a rival to the succession of Jonathan to the throne, all testify to Judah having formed part of Saul's kingdom. However, we have already seen that at an earlier stage the probability is that Judah was separated by force of circumstances from regular contact with the northern tribes, and so it must be assumed that, just as the power of the city-state system to separate the Galilean tribes from the mid-Palestinian tribes eventually declined, so too the power of the city-state system separating Judah from the north also declined until Judah was able to participate actively under Saul in common undertakings with the other tribes. When this happened is not clear, but most likely it was a consequence of Saul's successes over the Philistines early in his reign.¹⁹⁵ That Philistines and Canaanites were in league against Israel in the north has already been seen to be probable,¹⁹⁶ and there is no reason to doubt that similar conditions existed in the south. Thus, when the Philistines were dislodged from their garrison at Michmash,¹⁹⁷ and driven from the mountains, this would have marked the end of both Canaanite and Philistine obstruction between Judah and the north. The way would then have been left open for Saul to include also Judah within his kingdom.

195 1 Sam. 13f.

196 cf. above, pp. 99f.

197 cf. 1 Sam. 14 especially v.31. Aijalon was one of the Canaanite city-states unconquered by Israel.

Conclusions:

Most of this chapter has necessarily been negative. This is simply because it has been concerned with putting forward an alternative view of the period of the judges to the theory of the amphictyony which has become so entrenched in recent scholarly work. Thus, a thorough examination of the amphictyony theory has been essential.

As we have seen, this theory has many weak points. In fact, its foundation is so uncertain that it has seemed advisable to drop the word 'amphictyony' as far as possible, since it has connotations which cannot apply to the organization of the Israelite tribes in the pre-monarchy period.

However, as an alternative to this amphictyony theory, some positive proposals can be put forward on the basis of the discussion so far, which in our view offer a more credible picture of the growth and development of conditions in the period of the judges in so far as these affected the Israelite tribes.

Thus it is the view adopted here that the Book of Judges, disregarding its present schematic framework, accurately reflects the conditions of the pre-monarchy period. The Israelite tribes were separate, independent units, whose independence was to some extent voluntary, deriving from their old semi-nomadic way of life, but was also to some extent forced on them as a result of the conditions in which they settled.

Thus, broadly speaking, three, or perhaps four, groups of tribes can be discerned: the northern tribes comprising Issachar, Zebulun, Naphtali, Asher and also Dan for at least part of this period; the mid-Palestinian tribes comprising Ephraim, Manasseh and Benjamin; the tribes living on the mountains of Judah, comprising Judah, Caleb, Othniel, Cain, Jerahmeel and Simeon; and then perhaps a fourth group in Transjordan comprising Gad, part of the tribe of Manasseh, which migrated to this region, and the remnants of the tribe of Reuben. We are not to imagine, however, that these groups had absolutely no contact with one another, for the fact that Dan migrated to the north, and Gad together with part of Manasseh to the east,¹⁹⁸ would point to a different conclusion. But it is to be understood that common actions of the tribes in the sense of communal undertakings against enemies, even if these were desired, were to a large extent hindered by the divisions between the groups. Further, there is no evidence that common cultic activity or a common sanctuary formed part of the life of the tribes at this time. There were many sanctuaries throughout the land with their own circles of worshippers, though perhaps those sanctuaries at which the ark was lodged enjoyed a temporary popularity outside their immediate environs. Yet at the end of this period, Israel is found acting as a unit under Saul, and so it must be supposed that those obstacles which separated the tribes gradually disappeared. On the one hand, we must undoubtedly reckon with a growing conviction

¹⁹⁸ On this, cf. Noth, History, p.62; Mowinckel, Tetrateuch-Pentateuch-Hexateuch, pp. 11f.

on the part of the tribes that their future existence depended on their acting as a unit, but on the other hand, there was also the removal of the physical obstructions to common activity. Thus, the first occasion in which limited common action is attested, in the battle against Sisera, was made possible by the decline in power in the course of the second half of the 12th century B.C. of those Canaanite city-states which separated the mid-Palestinian from the northern tribes. This decline can be traced in excavations of Megiddo. True, the battle against Sisera, which we would date sometime in the course of the second half of the 11th century B.C., ended ultimately in Israel's defeat by the Philistines at Aphek; yet the battle had at least one result of permanent value to Israel in that it brought the tribes actively together for the first time, and thus helped form the foundation on which Saul's monarchy could be built. The second stage which can be traced in the coming together of the tribes lies in Saul's defeat of the Philistines, and the expulsion of the Philistines from the mountains in the southern part of the land. This opened the way into the territory of Judah, so that Judah's inclusion in the kingdom of Saul no longer had any physical hindrance. So it was a gradual process, which had its culmination in the beginning of Saul's reign, which brought the Israelite tribes together.

Now, our investigation cannot possibly end here. For, by reaching the conclusion that the Israelite tribes were disunited, independent units, which did not attain a semblance

of unity until the time of the monarchy, the question is immediately raised as to the origin of Israel's consciousness of itself as the people of Yahweh. This formerly found its explanation in the amphictyony, within the framework of which Israel's heterogeneous traditions were brought together, and the worship of Yahweh of Sinai spread throughout the nation. But, if no amphictyony existed we have to look either forwards or backwards from the period of the judges in the search for the origin of Israel's national consciousness. However, we have already seen¹⁹⁹ that the existence of the monarchy presupposes the prior existence of this national consciousness, and indeed Deut. 33: 7, if it does come from the period of the judges, pushes this consciousness right back into the pre-monarchy period. Thus, we are forced to look to an earlier time for the origin of Israel as the 'people of Yahweh'.

199 cf. above, pp. 104f

Additional Note to Chapter IThe Interpretation of Judg. 19-21

It has been argued above that the original narrative here told of revenge taken by Ephraim on Benjamin for an assault on an Ephraimite. However, the question has been raised as to whether this story in fact conceals a deeper motive.¹

It has been pointed out that in a few places in the Old Testament political crimes are camouflaged by sexual offences,² the reason being that the seriousness of the latter was much more likely to be appreciated and abhorred by ordinary people than that of the former.

- 1 Zobel, op.cit., pp. 118f., argues that this story is the theological justification for the seizure of the ark by the Ephraimites, guaranteeing them cultic and political leadership. However, this theory presupposes that Bethel was originally a Benjaminite city, for which there is no real evidence (on Josh. 18: 21-28, cf. above n.109), and that it was as a direct result of these events that the ark was transferred from Bethel to Shiloh. It also presupposes that Benjamin until this time possessed the cultic (and political?) leadership - a point which is far from certain, cf. below n.4
- 2 cf. Eissfeldt, "Der geschichtliche Hintergrund der Erzählung von Gibeas Schandtat (Richter 19-21)", pp. 12f., who refers to Gen. 9: 20-27, the story of Noah's drunkenness, which is told to explain the subjection of the Canaanites to the Israelites and the Philistines; also in Gen. 35:22 (cf. Gen. 49:3f), the reason for the political decline of Reuben is given as a sexual crime, cf. H. Gunkel, What Remains of the Old Testament,

Note 2 continued

London 1928, pp. 159f. J.B. Curtis, "Suggestions concerning the History of the Tribe of Reuben", JBR 33, 1965, argues that the incest attributed to Reuben in Genesis is a reading back into old times of the sexual laxness of the house of David. However, the evidence adduced by Curtis to derive David of Reubenite stock is much too circumstantial.

Thus the crime of the Benjaminites would have been political in nature. This would account for the severity of the punishment meted out to them, which has been taken by some to be out of all proportion to the alleged offence which caused it. If this is correct, and it is certainly possible, one is immediately forced to ask what the real root of the matter was. Here the ground is more uncertain, but there are some hints of conditions in that period which will allow conjecture to be made.

The prominence of the tribe of Ephraim is very apparent in the Book of Judges, a prominence which it jealously guarded. This is clear especially from Judg. 8: 1ff and Judg. 12: 1ff., where it is recorded that the Ephraimites upbraided Gideon and Jephthah for failing to summon them to battle. On the other hand, in Judg. 3: 15-30, Ehud the Benjaminite is found initiating the fight for freedom from the Moabites and only afterwards calling on Ephraim for help. The immediate willing response of the Ephraimites to this call and the fact that they did not censure the Benjaminites for not calling them out at the beginning, together with other considerations,³ hint at a

3 In spite of Noth, History, p.74 n.4; idem, The Old Testament World, pp. 72f., I think it is permissible to see a historical memory enshrined in Gen. 35: 16-20, the story of the birth of Benjamin on the soil of Canaan, cf. Eissfeldt, "The Hebrew Kingdom", pp. 11, 14. This would mean that Benjamin was originally a part of the tribe of Ephraim, but in the course of time split off from that tribe and made itself independent. With this would conform the very name Benjamin, which means 'sons of the south', which in turn would indicate the inferior and dependent

Note 3 continued

position of this tribe over against its stronger northern neighbour Ephraim. A group called the 'Banu-jamina', corresponding to another group called the 'Banu-simal', is referred to in the Mari letters, cf. Schunck, Benjamin, pp. 6ff., Noth, Die Ursprünge des alten Israel im Lichte neuer Quellen, p.14. But, in spite of Mowinckel, Tetrateuch-Pentateuch-Hexateuch, p.37 (cf. also J. Muilenburg, "The Birth of Benjamin", JBL 75, 1956, pp. 194ff.), an identification of the biblical Benjamin with the Banu-jamina of the Mari letters is extremely unlikely, cf. also Zobel, op.cit., p.112 n.198a; Danell, Studies in the Name Israel in the Old Testament, p. 33; Noth, The Old Testament World, p.72 n.51; idem, History, p.63 n.1; Rowley, "Recent Discovery and the Patriarchal Age", The Servant of the Lord (2nd edit.), Oxford 1965, p.305 and n.4.

dependence of Benjamin on Ephraim. Ehud must have been regarded by the Ephraimites almost as one of themselves.⁴ However, although Benjamin was in a dependent position over against Ephraim, we can understand from Judg. 3 that the Benjaminites were capable of acting on their own, independent of their northern neighbour. That they were a warlike people is apparent both from this story and from 2 Sam. 2: 15-16.⁵ So it is highly likely that, as their aspirations for independence grew, the roots of which

- 4 cf. Eissfeldt, "Der geschichtliche Hintergrund der Erzählung von Gibeas Schandtat", p.18 n.56, who is followed by Schunck, Benjamin, p. 57 n.46. Zobel, op.cit., p.111 n. 197, however, disagrees with this interpretation and holds that Benjamin held the leading position until after the battle recorded in the Song of Deborah, when it passed to Ephraim. For evidence of the earlier weakness of Ephraim, Zobel (ibid, p.96) points to Judg. 17-18, according to which the migrating Danites were able to pass freely through Ephraim, and to insult the Ephraimite Micah. However, it is unwise to rely too heavily on this story, which probably comes from the circle of the royal sanctuary of Dan, established by Jeroboam I. Its present form is polemical against opposition to royal innovations at the Danite sanctuary voiced by those who relied on old cultic traditions of the earlier sanctuary, and so one should not lay too much weight on issues which are incidental to the main theme, cf. Noth, "The Background of Judges 17-18", p.82.
- 5 cf. also 1 Chr. 8: 40; 12: 2; 2 Chr. 14: 7; 17: 17. Perhaps also reference could be made to Judg. 1: 21, though it is not certain that Benjamin is original here, cf. Josh. 15:63 and Schunck, Benjamin, pp. 78f. Zobel, op.cit., pp.108f., takes Judg. 1: 22-26 as referring to Benjamin, but this depends on his view of Bethel as a Benjaminite city, cf. above n.1.

may be discerned in Judg. 3, there finally came the time when an all-out effort was made by the Benjaminites to sever themselves completely from the dominating influence of Ephraim and to establish themselves as an independent tribe on an equal footing with the others. It may be this bid for independence which lies behind the story of the Gibeah outrage - a bid which failed, however,⁶ and which reduced Benjamin to a state of even greater dependence on Ephraim than was the case before, an inferiority from which it was not rescued until the time of Saul.⁷

6 Eissfeldt, "Der geschichtliche Hintergrund der Erzählung von Gibeas Schandtat", p.19, sees a reference to Benjamin in the "archers" of Gen. 49: 22-26, but yet he concludes that Benjamin succeeded in its attempt to set itself up as an independent tribe. However, it is clear from Judg. 20 that Ephraim was the victor in the battle, and also in Gen. 49: 22-26, "Joseph" is successful against the "archers", cf. Zobel, op.cit., p.117

7 Benjamin also appears dependent on Ephraim in the Song of Deborah, cf. Judg. 5: 14. Undoubtedly the fact that Ephraim is mentioned first here illustrates the pre-eminence of that tribe. Benjamin is without a leader and appears as an appendix to Ephraim, cf. Schunck, Benjamin, p.55. For a date sometime in the course of the second half of the 11th century B.C., to which we assign the battle commemorated in this Song, cf. above, pp. 90ff

CHAPTER 2

The Relationship between Yahweh and Israel in the Period of the Judges.

- (a) Yahwism as the unifying factor among the Israelite tribes.

In the last chapter we came to the conclusion that the theory of the existence of a twelve tribe amphictyony in the period of the judges, as postulated by Noth and followed by the majority of scholars, is no longer historically tenable. The impression given by the Book of Judges, disregarding its present schematic arrangement, of a disorganized, disunited number of tribes, not above internecine warfare, does, we believe, reflect the historical conditions of that time. Instead of an overall unity of twelve tribes meeting regularly at a common, central sanctuary to celebrate the festival of covenant renewal, the most that can be posited is a loose association of a number of tribes in different, separate groups: in east Jordan, northern west-Jordan, central west-Jordan, and southern west-Jordan. Their to a large extent common background, and common opposition to both

Canaanites¹ and Philistines, may have constituted some sort of bond of political unity; but this, we believe, never came to actual historical reality until the time of the monarchy and the defeat of those factors which operated as dividing influences among the tribes.

Yet, even if Israel never appeared as a political unit during the pre-monarchy period in Palestine, it is nevertheless clear that the tribes, and in this connection we think especially of Ephraim and Judah, were not wholly without some bond of unity in this period. We have already seen that it is highly unlikely that the 'all-Israel' idea originated in the monarchy period,² but that the monarchy rather presupposes this 'all-Israel' idea.

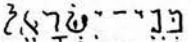
1 This, of course, is not to deny that Canaanite elements did contribute towards the formation of some of the Israelite tribes which eventually formed the state; but the extent to which this took place, and the processes involved, are largely a matter of conjecture; cf. Newman, The People of the Covenant, p. 110 n.21, who suggests that the 'concubine' tribes of Gad, Asher, Dan and Naphtali, were largely Canaanite. Apart from differences in religion and faith, the distinction between Israelite and Canaanite is not so much ethnic as cultural; it lies in Israelite opposition to the Canaanite city-state culture; cf. Noth, "The Laws in the Pentateuch", p.29 n.64

2 cf. above pp.104f.

Now, our attention, with regard to this problem, concentrates naturally on the question of the relationship between Judah and the north, for, apart from the brief episode of Saul, there was no time when Judah and the north formed a political unity. During the reigns of David and Solomon they were united only in the person of the king, but thereafter Judah and the north, to which latter the name 'Israel' was now applied, pursued separate courses. However, in spite of this division, the 'all-Israel' idea, which included Judah, survived and found expression in the oracles of the canonical prophets³ who often use the term 'Israel' to include both north and south. Now, this use of the word 'Israel' is a religious usage. It is used, not in a political context, but in the context of Yahweh's relationship with his people. Yahweh was not the God of Judah, nor the God of Ephraim, but the God of 'Israel'. Thus, the origin of the 'all-Israel' idea is to be sought, not in a political context, but in a religious one. Furthermore, it is to be noted that such a search is not necessarily identical with a search for the origin of the name 'Israel'. Where this name originated and how it came to be applied to the people which had Yahweh

3 This is particularly the case with Micah, for which cf. Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 24ff.

for its God are still unsolved questions.⁴ However, the point with which we are primarily concerned here is in

- 4 Israel is here taken simply in the sense of the people of Yahweh, with no political or geographical overtones. On the possibility of the use of the name as the designation of an early, pre-conquest, six tribe amphictyony centred round Shechem, cf. Noth, Das System, pp. 91ff; Newman, The People of the Covenant, pp. 78ff. The earliest occurrence of the name is in line 27 of the Stele of Merneptah, from c.1220 B.C. However, it is impossible to determine precisely what is meant by the use of the name here. It is held, cf. J.A. Wilson, in Ancient Near Eastern Texts (edit. J.B. Pritchard), Princeton University Press 1950, p.378 n.18, that, since the name is written with the determinative of the people and not of the land as otherwise in the Stele, the reference is to the  still not settled in their land; thus the Stele is said to be important for the date of the conquest. However, since the chronology of Israel's early period is still far from certain, and since the origin of the name Israel is obscure and the time of its adoption by the tribes uncertain, it would be hazardous to base any conclusions on the reference, cf. Noth, Überlieferungsgeschichte des Pentateuch, p. 278 n.655; idem, History, p.3; cf. also Eissfeldt, "Palestine in the time of the Nineteenth Dynasty (a) The Exodus and Wanderings", C.A.H. (rev. edit.) vol. II ch. xxvi (a), 1965, p. 14. G.A. Danell, Studies in the Name Israel in the Old Testament, p.44, holds that it is reasonable to suppose that this occurrence "points to an Israel that was in Canaan before the immigration under Joshua", and also argues (ibid., pp. 15-28) for the identification of the names Israel, Jeshurun and Asher. The problem here will probably continue to defy certain solution.

tracing the origin of Israel's consciousness of itself as the people of Yahweh, for it is here, if anywhere, that it will be possible to explain the unity of Israel, a unity which did not express itself politically but which was yet just as much a reality in the more strictly religious sphere. In other words, Israel's constitutive factor was its faith,⁵ and so it is in an investigation of Israel's faith that the origin of her national consciousness is to be found.⁶ So our object is, firstly, to examine the relationship which existed between Yahweh and Israel, that is, the form in which Israel's faith was expressed, and, secondly, to see if, by tracing this faith back to its earliest appearance, it is possible to bring to light historical conditions in which the fact of this faith being common to both Judah and the other tribes receives a credible explanation.⁷

5 cf. especially, Bright, Early Israel in Recent History Writing, pp. 84ff, 113f.

6 Quite apart from our conclusions in the first chapter, it seems that this should be emphasized over against Alt. "The Formation of the Israelite State in Palestine", pp. 180, 193, who holds that the amphictyony is the source of the national consciousness of Israel.

7 This second point is taken up in the third chapter below. We are not concerned here with the question of the origin of the worship of Yahweh as such. On the supposed occurrence of the name Yahweh in the Ugaritic texts, cf. Rowley, The Biblical Doctrine of Election, London 1950, p.26 with references. On the theory of the Kenite origin of Yahwism, the basic statement is probably that given by K. Budde, The Religion of Israel to the Exile, New York 1899, pp. 18ff. cf. also H. Schmökel, "Jahwe und die Keniter", JBL 52, 1933, pp. 212-229; Rowley, From Joseph to Joshua, pp.149-160;

Note 7 continued

idem, "Moses and the Decalogue", Men of God, London 1963, pp. 16ff, p.30 n.3; Newman, The People of the Covenant, pp. 25f, 83ff, 138f; and other references in Rowley, Election, p.26 n.3. This theory is rejected by Y.Kaufmann, The Religion of Israel, pp. 242ff; P. Volz, Mose und sein Werk (2nd edit.) Tübingen 1932, p.59; H.W. Brekelmans, "Exodus xviii and the Origins of Yahwism in Israel", Oudtestamentische Studiën X, 1954, pp. 215-224; Smend, Jahwekrieg und Stämmebund, p.96. Our concern here is with the origin of Yahwism only in so far as this will elucidate the origin of the national consciousness of that people which came to be called Israel.

(b) The Covenant Faith of Israel

(i) The 'development' of Israelite religion

The older view, finding its representatives in scholars such as Wellhausen, Meyer and Hölscher, saw the relation between Yahweh and Israel in its nature and origin as a natural one with no interval between Yahweh and his people.⁸ Thus it could be said that there was no essential difference between the relation of Yahweh to Israel and that of Chemosh to Moab in the early time,⁹ or that Yahweh was

8 cf. Wellhausen, Prolegomena to the History of Israel, Edinburgh 1885, p. 417. According to the examination of H.J. Kraus, Geschichte der historisch-kritischen Erforschung des A.T., Neukirchen 1956, pp. 244, 248f, Wellhausen in his work on the Old Testament applied Hegel's scheme of the development of absolute spirit from nature; but cf. now, L. Perlitt, Vatke und Wellhausen, Geschichtsphilosophische Voraussetzungen und historiographische Motive für die Darstellung der Religion und Geschichte Israels durch W. Vatke und J. Wellhausen, BZAW 94. 1965, who argues that this view of Wellhausen's work is erroneous, and that Wellhausen worked directly from the text of the Old Testament (however, against this, cf. Albright, Yahweh and the Gods of Canaan, London 1968, p.1 n.3.) For other forerunners of Wellhausen in the application of the principle of 'historical development', cf. Eichrodt, Theology of the Old Testament vol. 1, London 1961, pp. 28f.

9 cf. W.A. Irwin, in H. Frankfort and others, The Intellectual Adventure of Ancient Man, Chicago 1946, pp. 328f.

originally an arbitrary fire-demon.¹⁰ Naturally, such views leave no room for a founder of the religion, and so the position of Moses is depreciated, perhaps to something like the ancestor of the priesthood at Kadesh.¹¹ With this view, there were various factors which led to the religion of Yahweh receiving a moral and ethical content. With Hölscher two factors contributed towards this: firstly, the elevation of Yahweh from being a fire-demon to the position of national god; and, secondly, the connection of Yahweh with the custom and law of the people. According to Wellhausen¹² the motivating force was the threatening rise of the Syrians and Assyrians against Israel, which led to prophets such as Elijah and Amos raising Yahweh to a position high above the people, so breaking the natural bond between them and instituting in its place a relation, the preservation and maintenance of which depended on the observance of certain demands of a moral character.

10 Thus Hölscher (article on 'Johannes Pedersens "Israel"', in SEA 2, 1937, pp. 65-92), who is dependent on a particular theory of the origin of the religion from animism.

11 So Hölscher, op. cit.; cf. also Meyer, Die Israeliten und ihre Nachbarstämme, pp. 85f, who ascribes the spread of Yahwism through Judah and Israel to the Levites who brought it from Kadesh.

12 Prolegomena to the History of Israel, p. 417

Collateral with this aspect of the development of Israelite religion from lower to higher forms¹³ was the view that the expression of early Israelite religion was purely cultic, while the ethical emphasis of the prophets was a later, novel step in the evolution.¹⁴ By using this method it was considered that the beginnings of Israelite religion had a 'normal character,'¹⁵ which made it comparable with the religions of the nations in Israel's environment, a state of affairs which continued until the rise of the prophets.

13 For a review of the question, cf. G.E. Wright, The Old Testament against its Environment (SBT 2), London 1950, pp. 9-16; idem, God who Acts (SBT 8), London 1952, pp. 34f.

14 cf. e.g., Mowinckel, Le décalogue, p.60: "the view that sees the ethical and anti-cultic religion of the prophets as a return to origins rests on a false comprehension, or lack of comprehension, both of the mentality and of the civilization of the Mosaic era" (cf. also *ibid.*, p.99); cf. further, R.H. Pfeiffer, Religion in the Old Testament, The History of a Spiritual Triumph (edit. C.C. Forman), London 1961, p.96; and, for a most extreme view, E. Robertson, "The Role of the early Hebrew Prophet", BJRL 42, 1959/60, pp. 412-431, who contends that only after the fall of the southern kingdom did the prophets proclaim a moral and a spiritual religion, while before that they acted as spies and subversive agents on behalf of Judah.

15 Wellhausen, Prolegomena to the History of Israel, p. 437.

However, the imposition of such a process on the religious development of both Israel and her neighbours is now seen to be quite inadequate and misleading.¹⁶ Not only are high ethical values present with most primitive peoples, but also it is very doubtful if those archaic survivals, which are to be found with Israel as well as her neighbours, can be used to reconstruct a system which may be put forward as a presentation of the early religion of a particular country.¹⁷

Quite apart from these general considerations, however, recent work especially on the prophetic books and the psalms has tended to emphasize the preservation in Israel of traditions and institutions from the oldest days. The prophets were no great individualists, apart from whom there was no revelation and with whom there was the beginning of spiritual history;¹⁸ and, although the position and

16 cf. Wright, The Old Testament against its Environment, pp. 12f; Nielsen, Shechem, p. 110: "as every scholar initiated into the psychology of religion will know, "primitive" and highly "developed" theological conceptions exist happily side by side among human beings, even in the same person".

17 cf. Eichrodt, "Review of H.E. Fosdick, A Guide to the Understanding of the Bible". JBL65, 1946, p. 206.

18 cf. Wellhausen, Prolegomena, p. 398; B. Duhm, Israels Propheten, Tübingen 1916, p.8. A recent advocate of such exaggerated claims for the prophets is C.F. Whitley, The Prophetic Achievement, London 1963; but cf. H.W. Wolff, "Hauptprobleme alttestamentlicher Prophetie", Gesammelte Studien zum Alten Testament, München 1964, pp. 217ff.

attitude of the prophets, in particular the so-called writing prophets, with regard to the cult has been by no means clarified to the satisfaction of all,¹⁹ it must yet be recognized that they did not stand and teach completely independent of the existing religious forms and institutions.²⁰ They stand in a religious tradition the origin of which reaches back to the beginnings of Israel, and indeed the

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- 19 The literature on this subject is vast. As a very small selection we may mention: Mowinckel, Psalmstudien III. Kultprophetie und prophetische Psalmen, Kristiania 1923; Halldar, Associations of Cult Prophets among the ancient Semites, Uppsala 1945; Würthwein, "Amos Studien. Amos und das Kultprophetentum", ZAW 62, 1950, pp. 10ff; Johnson, The Cultic Prophet in Ancient Israel, Cardiff 1962. For criticisms of the views there brought forward, cf. G. Quell, "Der Kultprophet", ThLZ 81, 1956, cols. 401ff; R. Hentschke, Die Stellung der vorexilischen Schriftpropheten zum Kultus, BZAW 75, 1957. But cf. R.E. Clements, Prophecy and Covenant (SBT 43), 1965, p.34.
- 20 For a convenient summary of the various points at issue here, cf. Clements, Prophecy and Covenant, pp. 32f (on the definition of a 'cultic prophet'), pp. 20f, 29ff, 80f, 95f, 100ff (on the relation between prophecy and cult); and also B.S. Childs, Memory and Tradition in Israel (SBT 37), London 1962, p.39; cf. also von Rad, Old Testament Theology vol. 2, p. 177, who says of the eighth century prophets that "their whole preaching might almost be described as a unique dialogue with the tradition by means of which the latter was made to speak to their own day", and further, *ibid.*, pp. 192, 225f, 323ff. For a particular case, cf. H.W. Wolff, "'Wissen um Gott' bei Hosea als Urform von Theologie", Gesammelte Studien zum Alten Testament, pp. 182ff, who suggests that with Hosea knowledge of God meant knowledge of the old traditions.

very fact that they were so strong in their condemnations of the social and moral evils so prevalent in Israel presupposes that the standards of behaviour and worship which the prophets championed were no novelty to those accused of the neglect of them.²¹ Furthermore, the ancient formula "such a thing is not done in Israel" ($\text{לֹא־כֵן־עוֹשִׂים־בְּיִשְׂרָאֵל}$ - 2 Sam. 13: 12), and the likewise ancient phrase 'folly in Israel' ($\text{כְּחֵלְלָהּ־בְּיִשְׂרָאֵל}$ - Gen. 34: 7; Deut. 22: 21; Josh. 7: 15; Judg. 20: 6; Jer. 29: 23; cf. 2 Sam. 13: 13), clearly indicate that Israel before the prophets was well familiar with that ethical instruction which formed part of the heritage of the prophets.²²

Not only in what they said, but also in how they said it did the prophets draw on tradition. As was general with authors and writers in the Ancient Near East, so also in Israel the prophets made use of traditional forms and expressions to deliver their message.²³ This has been demonstrated with regard to the prophetic use of traditional curses,²⁴ and also with regard to their use of cultic

21 cf. Clements, Prophecy and Covenant, pp. 16f, 75, 96, 125f.

22 cf. W. Zimmerli, The Law and the Prophets (E.T. Oxford), 1965, p.61.

23 cf. Gunkel, "Die Grundprobleme der israelitischen Literaturgeschichte", Reden und Aufsätze, Göttingen 1913, pp. 29-38; Albright, "A Catalogue of early Hebrew Lyric Poems (Ps. lxviii)", HUCA XXIII, 1950/51, p.2.

24 cf. H. Graf Reventlow, Wächter über Israel. Ezechiel und seine Tradition, BZAW 82, 1962, pp. 4-43, who shows that Ezekiel and the author of Lev. 26 draw on a common stock of traditional curses; cf. further, the cautious evaluation of the evidence in D.R. Hillers, Treaty

Note 24 continued

Curses and the Old Testament Prophets, Rome 1964, pp. 77ff, 84ff, on the parallels between biblical curses and those of extra-biblical documents; and see also the similarities and differences given by F.C. Fensham, "Common Trends in the Curses of the Near Eastern Treaties and Kudurru Inscriptions compared with the Maledictions in Amos and Isaiah", ZAW 75, 1963, pp. 155-175; and also F. Nötscher, "Bundesformular und 'Amtsschimmel'", BZ 9, 1965, pp. 202f.

forms.²⁵

However, besides drawing on their literary and religious heritage for ethical teaching and literary forms, the prophets also employed the normative tradition of faith concerning the election of Israel by Yahweh to be his own possession.²⁶ This tradition of Israel's election by Yahweh at the exodus occurs often in the prophetic books, and is sometimes used by the prophets as justification for Yahweh's imminent punishment of the people for their rebellion and disobedience (cf. Hos. 11: 1ff; 12: 10 (EVV 9); 13: 4ff; Amos.2:10ff; 3: 1ff²⁷)²⁸. If one

- 25 cf., e.g., on the Entrance Liturgies of Is. 33: 14-16 and Mic. 6: 6-8, Clements, Prophecy and Covenant, pp. 83ff, and the literature cited there; and on the prophetic use of the complaint psalm, cf. Childs, op. cit., pp. 39f.
- 26 cf. especially, E. Rohland, Die Bedeutung der Erwählungstraditionen Israels für die Eschatologie der alttestamentlichen Propheten, Diss. Heidelberg 1956, passim, cf. p.266.
- 27 A threat such as this (cf. Amos 9: 7-10 may have been made in order to combat a popular distortion of the idea of election in which Yahweh was conceived of as a national god, like Chemosh of Moab, whose continued sovereignty was dependent on the well-being of his people, cf. B.W. Anderson, "God, O.T. view of," IDB vol. 2, p.420; Mendenhall, "Election", IDB vol. 2, p.79. But it is most unlikely that the doctrine arose as an expression of nationalistic pride, which was given a subsequent re-interpretation by the prophets, cf. Wright, The Old Testament against its Environment, pp. 48f, 54
- 28 Attention has often been drawn to the fact that Isaiah and Micah make little if any use of the Exodus

Note 28 continued

tradition, while the emphasis is instead on the David-Zion tradition. The authenticity of what few references there are to the exodus event in these prophetic books (cf. Is. 4: 2-6; 10: 24-26; 11: 16; Mic. 6: 4) has been contested; for literature on the subject, cf. Clements, Prophecy and Covenant, p.51 n.2. However, it would be unwise on the basis of this to argue, as von Rad, Theology of the Old Testament vol. 1, pp. 47, 66, that the traditions of Exodus and Zion were fostered independently of each other, the former in the north and the latter in the south, cf. N.W. Porteous, "Actualization and the Prophetic Criticism of the Cult", Tradition und Situation (A. Weiser Festschrift), Göttingen 1963, p.101; and further, below, pp.244ff.

were to accept as a guide simply the occurrences of the root $\gamma\eta\eta$, then it would appear that the concept of Yahweh's choice of Israel is no earlier than the deuteronomic literature;²⁹ but it is clear, even from the prophetic passages just mentioned, that, while the vocabulary of 'election' may be absent, the idea that Israel was a people separate from other nations and standing in a peculiar relation to God is very much older.³⁰ The most natural and simple explanation of the formulation of this doctrine is that it arose as the result of the early interpretation of what Israel experienced at the Reed Sea. This event, understood as a divine act of redemption, showed that God had a special concern for Israel, a nation destined for a particular purpose. The whole scheme of the Yahwist's work is centred round the election promises of God and the stages by which they were fulfilled. Such a consciousness of their peculiar relation to Yahweh was so fundamental to Israelite thought that it must have existed long before our present records were set in writing.³¹

29 cf. Th.C. Vriezen, Die Erwählung Israels nach dem A.T., Zürich 1953, p.47; von Rad, Das Gottesvolk im Deuteronomium, BWANT III 2, Stuttgart, 1929, pp. 27f. On the origin of the use of $\gamma\eta\eta$ in this sense, from the Davidic kingship ideology, cf. Clements, "Deuteronomy and the Jerusalem Cult Tradition", VT 15, 1965, 305ff.

30 cf. von Rad, Old Testament Theology vol. 1, pp. 178, 223; Mendenhall, "Election", p.76, "Patterns of thought may well exist without specific linguistic labels"; cf. also Clements, Prophecy and Covenant, p.46 n.1; Wildberger, Jahwes Eigentumsvolk, pp. 107ff.

31 cf. Wright, "The Faith of Israel", IB vol. 1, p.353; idem, The Old Testament against its Environment, pp. 51f.

However, within the JE narrative a certain tension exists in that a two-fold tradition of election is recorded, that of the patriarchs and that of Israel,³² which has led to the view that the tradition of the choosing of the patriarchs is a projection into the past of theological views formulated on the basis of the interpretation of the exodus event.³³ The fact that there are only few references to the patriarchal traditions in the pre-exilic prophets was taken as support of this theory.³⁴ However, in view of the study of Alt,³⁵ it seems better to understand that

32 This double tradition has been analyzed by K. Gallig, Die Erwählungstraditionen Israels, BZAW 48, 1928. The exodus and conquest are thus made to follow as fulfillment of the promises of Yahweh to the patriarchs, cf. Ex. 13:11; 33:1f; Nu.10:29; Deut. 34:4.

33 cf. Eichrodt, Theology of the Old Testament, vol. 1, pp. 49f; Wright, "History and the Patriarchs", Exp. T.71, 1959/60, p.293; idem, The Old Testament against its Environment, pp. 49f. This was also the view of Gallig, op.cit., pp. 63ff, who considered that the election of the patriarchs was a secondary elaboration introduced when Israel's history was set in a broader historical context; cf. also Noth, "The Laws in the Pentateuch", p. 37 and n. 91.

34 cf. Gallig, op.cit., pp. 5ff.

35 cf. Alt, "The God of the Fathers", Essays on Old Testament History and Religion, pp. 62ff; cf. also F.M. Cross, "Yahweh and the God of the Patriarchs", HTR 55, 1962, p. 228; von Rad, Old Testament Theology vol. 1, pp. 168ff.

we have in fact two parallel traditions of election, both of which are original (to which indeed the lack of harmony in the final form of the traditions bears witness), and that the paucity of references in the pre-exilic prophets to the patriarchal traditions is due to the exclusive concern of the prophets with Yahweh's redemptive act in the exodus from Egypt, while the memory of the patriarchs came to be preserved more in popular folk-tales.³⁶

Thus, it has become clear that we cannot reckon with any unilinear development from 'primitive' or 'natural' to 'ethical' in our consideration of the history of Israelite faith and worship. Instead, we must understand a living stream of tradition which had a very definite beginning long before the prophets,³⁷ and which the prophets could

36 cf. Alt, "The God of the Fathers", p.62; Clements, Prophecy and Covenant, pp. 66ff. Wildberger, Jahwes Eigentumsvolk, p.71 and n.22, who argues that the combination of the patriarchal traditions with the exodus (election) tradition was a literary process, and suggests that the traditions of the patriarchs had more difficulty than the election (exodus) tradition in gaining an 'all Israel' reference, and in being recognized as an essential testimony of belief; cf. further, Lindblom, Prophecy in Ancient Israel, Oxford 1962, p.331.

37 It seems to me that, if one is to preserve the very *raison d'être* of the future faith of Israel, and the only possible departure point for the growth of that faith, it is imperative to understand that the events at the Exodus and at Sinai constituted a very definite beginning. Otherwise, it is impossible to explain why or how the faith of Israel became anything different from the religions of her neighbours, cf. Eichrodt, "Review of H.E. Fosdick, *A Guide to the Understanding of the Bible*", p.212. The genius of Moses alone, as Volz, Mose und sein Werk, p.15, would have it, is hardly sufficient nor simply environment and growth, cf. Wright, The Old Testament against its Environment, p.15; idem, God who Acts, p.35

and did use as a source and inspiration of their preaching. This does not mean that the prophets were just pale reflections of what were already long established norms and ideals. Without doubt there was some development, and without doubt the prophets, though certainly reaching back to what they considered to be the ideal past in Israel's relation with Yahweh, injected fresh thoughts and ideas into their preaching and teaching as they sought to bring Israel back to "the ancient paths, where the good way is" (Jer. 6: 16).³⁸

So Israel, as early as the period of the judges with which we are here more specifically concerned, believed herself to be an elect people, not as a result of any special favouritism towards her from God, nor as the result of any national pride as a superior race, but as a result of an action initiated by Yahweh which drew her into a special relationship with him. Our object then, in what follows, is the closer definition of this relationship through clarifying the way in which Israel expressed this faith.

38 cf. Wright, The Old Testament against its Environment, p.70. A quotation from Alt, "The Origins of Israelite Law", Essays on Old Testament History and Religion, p.86, is pertinent here: "...every restoration imports new ideas into the visionary pictures of the good old days on which it is based. But these newer features must not be allowed to destroy the impression that it is the claims of the old order, the ancient way of life of the nation, which are being advanced once more against every false development of the more recent past".

(ii) The Covenant

At the culmination of the great 'parliament' of Shechem, recorded in Josh. 24, we read (v.25): "and Joshua made a covenant (וַיַּכְרֵם) 'with' the people (וְעַם)³⁹ on that day". The word וַיַּכְרֵם has been and still is the focal point of argument, and an investigation of its meaning, from the point of view both of its etymology and of its use in the Old Testament, is essential in a discussion of the relationship between Yahweh and Israel.

The etymology of the word is obscure,⁴⁰ and the precise significance of the phrase $\text{וַיַּכְרֵם וַיַּכְרֵם}$ uncertain.

וַיַּכְרֵם has been derived from וַיַּכְרֵם and so given the meaning 'food',⁴¹ but in view of the fact that וַיַּכְרֵם is sometimes used alone in the sense of covenant making, (cf. e.g., 1 Sam 22: 8), and also in view of its parallel in the Mari letters in the phrase 'hayaram katalum' (ass-slaying),⁴² it is unlikely that וַיַּכְרֵם should be

39 The use of the preposition בְּ here draws in further questions to which we will return below, cf. pp. 154ff.

40 For a discussion of some of the views put forward and objections to them, cf. Nielsen, Shechem, pp. 110-118.

41 cf. L. Koehler, "The Language of the Old Testament", JSS 1, 1956, pp. 6f.

42. cf. the independent examinations of this Mari Letter II, 37 in Nielsen, Shechem, pp. 114ff, and Noth, "Old Testament Covenant Making in the Light of a Text from Mari", The Laws in the Pentateuch and Other Essays, pp. 109ff.

connected with כָּרַת 'to eat'; such a derivation would mean that the phrase כָּרַת בְּרִית arose as a result of the combination of two different methods of covenant making: that of eating together, and that of slaying an animal.⁴³ Another suggested derivation is from the Accadian word bir^{u} tu, 'bond', 'fetter';⁴⁴ but the combination of this with כָּרַת to produce the phrase 'to cut a bond', gives a meaning just about opposite to what is required for כָּרַת בְּרִית . There remains the possibility of deriving the word from the Accadian birtu , a noun meaning 'midst', used in the construct state,

43 On the latter as a "sort of acted out conditional curse" cf. McCarthy, Treaty and Covenant (Analecta Biblica 21), Rome 1963, pp. 55ff. Hempel, "Bund. Im A.T.," RGG (3rd edit.), col. 1515, suggests that in rituals like those of Gen. 15: 17; Jer. 34: 18, כָּרַת can mean the divided animal, for which he quotes G. Quell in support. However, the latter, "Der alttestamentliche Begriff כָּרַת ", TWBNT vol. 2 (1935) s.v. $\delta\alpha\theta\eta\kappa\eta$, p.108, argues that כָּרַת בְּרִית is an abbreviated form of speech in which the direct object is suppressed and the result or aim of the action is put in its place - to cut something with the result that כָּרַת exists. That כָּרַת is not the direct object of כָּרַת is clear to Quell from the fact that other accusatives, such as כָּרַת in Deut. 29: 11, or כָּרַת in Neh. 10: 1, or כָּרַת in Hag. 2: 5, can sometimes take the place of כָּרַת in the expression כָּרַת בְּרִית without causing any basic change in the meaning of the phrase.

44 cf. Albright, "The Hebrew Expression for 'Making a Covenant' in pre-Israelite Documents", BASOR 121, 1951, p.22 n.6. Albright identified the phrase TAR be-ri-ti , 'to cut a beritu ' in a cuneiform text from Qatna, dating from the early fourteenth century B.C. at the earliest. Cf. also Mendenhall, "Covenant", IDB vol.1, p.715; J.A. Soggin, "Akkadisch TAR Beriti und hebraisch כָּרַת בְּרִית ", VT 18, 1968, pp. 210-215; O. Loretz, " כָּרַת - Band-Bund", VT 16, 1966, pp. 239ff.

* birit, as a preposition meaning 'between'.⁴⁵ Since the covenant, the relation between two parties, was established by certain sacral actions being carried out between the partners, the word birit may have come to denote what took place 'between', i.e. the actions involved in establishing the covenant relation, and from there, perhaps because this change would have already involved the necessity of introducing the covenant partners by means of a different preposition,⁴⁶ birit may have come to denote the actual relationship itself.

However, this lack of certainty about the etymology of

ברית is hardly a serious obstacle on its own to an explanation of how the Israelites conceived of the nature of a covenant, since concepts have a long history through which they can go very far from their original significance.⁴⁷ So it is the actual use of ברית in its various contexts throughout the Old Testament which is of primary importance for a true understanding of the covenant idea.

Following his views of the original nature of the relationship between Yahweh and Israel, Wellhausen⁴⁸ argued that

45 cf. the studies mentioned above n. 42, and Soggin, op.cit., p.214

46 Thus resulting in the Hebrew expression כרת ברית בין... (2 Kings 11: 17 etc.), cf. Noth, "Old Testament Covenant Making in the Light of a Text from Mari", pp. 112f.

47 cf. Würthwein, "Der Sinn des Gesetzes im A.T.", ZThK 55, 1958, pp. 263f.

48 Prolegomena to the History of Israel, pp. 417ff.

this relationship was not known by the designation 'covenant' until after the time of the classical prophets who had introduced the idea that Yahweh was not inseparably bound to his people, and that his continued presence with them depended on their fulfilling his righteous demands. But it was not until after 621 B.C. that the covenant concept came to occupy a central position in religious thought, as, for example, in Deuteronomy, Jeremiah and Ezekiel.⁴⁹ Without embarking on the question of whether or not the representatives of this view consider that monotheism is an indispensable presupposition for an early Israelite theological covenant idea,⁵⁰ it is nevertheless

49 This was also the contention of R. Kraetzschmar, Die Bundesvorstellung im A.T., Marburg 1896; cf. also B. Stade, Biblische Theologie des A.T. vol. 1, 1905, pp. 36, 192, 254f, who held that Jeremiah was the first prophet to conceive of Israel's relationship with Yahweh as a ברית; for a more recent representative of this view cf. Pfeiffer, "Facts and Faith in Biblical History", JBL 70, 1951, p.2 n.3; idem, Religion in the Old Testament, p.55. This is followed by Whitley, "Covenant and Commandment in Israel", JNES 22, 1963, p.42. One can hardly avoid the impression that the latter's treatment of passages such as Ex. 24: 3-8; 34: 10-28; 19: 3-6, as very late sections, is dictated by the theory he represents.

50 So according to Quell, "Der alttestamentliche Begriff ברית", p.121. The only explicit statement I have come across in a parallel connection is that of Volz, Mose und seine Werk, p.74, who argues that the idea of election, having sense only if God could have chosen another people, was not present in the Mosaic religion since it presupposes a developed monotheism; cf. also P. Altmann, Erwählungstheologie und Universalismus im Alten Testament, BZAW 92, 1964, p.7, who argues that "nicht Monotheismus und Erwählungstheologie,

sondern dynamischer Universalismus und Erwählungsaussagen gehören zusammen". This introduces a problem too complex to be developed here. But perhaps two things may be noted: firstly, to debate the question of Moses and monotheism is to introduce categories of thought which were foreign to the Mosaic generation. Likewise with the second point: from a theoretical point of view election does only make sense if there was a free choice between one people and another. But from the practical standpoint, of the deliverance of a small band of insignificant slaves from the power of Egypt, the only explanation possible would have been that here was a God concerned with them enough to effect such a miraculous rescue, in order, for some purpose of his own, to bring them into a particular relation to himself, which is indeed the essence of election. Monotheism is hardly a major point of issue at this stage.

clear that the theory of a late emergence of the covenant concept as an expression of Israel's relationship with Yahweh involves a treatment of certain texts which is hardly tenable;⁵¹ and it is also clear that the presence of the word ברית is not essential for the expression of the concept.⁵²

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- 51 The only occurrences of ברית in the eighth century prophets as a reference to a divine covenant, are in Hos. 6: 7 and 8: 1, of which the former is often rejected as corrupt; but cf. Wolff, Hosea BKAT, Neukirchen 1961, pp. 154, 176f. On Ex. 19: 3-6; 24: 3-8; 34: 10-28, contrast the treatment of Whitley (cf. n.49) and that of Beyerlin, Origins and History of the Oldest Sinaitic Traditions, pp. 67ff, 36ff, 77ff.
- 52 cf. e.g., Ex. 24: 9-11, and Eichrodt, Theology of the Old Testament vol. 1, p.36 n.2; F. Baumgärtel, Die Eigenart der alttestamentlichen Frömmigkeit, 1932, p.76. Mendenhall, "Covenant", p. 716, argues that in the early time the relationship between Yahweh and Israel was not known by the name ברית but that it may have been called 'the ten words', or 'the testimony', for the latter of which the cognate Accadian and Aramaic words were regularly used for 'covenant'. For another possible reason for the absence of the term in the pre-exilic prophets, cf. below p.166

There are two further views, those of Begrich and Jepsen,⁵³ which will have to be considered at some length. Though similar in many respects, they differ in many others.

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- 53 J. Begrich, "Berit. Ein Beitrag zur Erfassung einer alttestamentlichen Denkform", ZAW 60, 1944, pp. 1-11; A. Jepsen, "Berith. Ein Beitrag zur Theologie der Exilszeit", Verbannung und Heimkehr (Rudolph Festschrift), Tübingen 1961, pp. 161-179. At this stage the extra-biblical treaty forms, coming mainly from the Hittites and Assyrians, will not be discussed in relation to the biblical material. It seems to me that the biblical conception must be ascertained first before fair comparisons may be drawn with outside material. The long chronological gap between the archaeological appearance of the Hittite and Assyrian treaty forms, as well as the scanty nature of our knowledge concerning how and when Israel may have come to know and apply these treaty forms (for example, the Hittite treaty form may have been known and used by Israel in her relations with other countries from very early on, but yet not have been used as an expression of her relationship with God until a much later stage), seems to me to make the procedure quite illegitimate whereby comparisons are drawn between biblical and extra-biblical material, and these comparisons used in order to assign dates to the relevant biblical literature. (It seems, for example, that some such procedure is used by Baltzer, Das Bundesformular, WMANT, Neukirchen, 2nd edit., 1964, pp. 41ff, 43 n.4, who believes that because he finds the structure of the covenant form in Deut. 1-4: 40 this speaks against Noth's view of the section as the beginning of the deuteronomistic historical work. In fact, of course, this does not affect Noth's view at all. Similarly, the general structure of 1 Sam. 12, cf. Muilenburg, "The Form and Structure of the Covenantal Formulations", pp. 360ff; Baltzer, op.cit., pp. 73ff; Weiser, Samuel, pp. 82ff, does not affect Noth's judgement of the chapter as deuteronomistic, cf. Überlieferungsgeschichtliche

Note 53 continued

Studien, pp. 5, 59f. Nor does the covenant form of Deuteronomy as a whole support an early date for the latter, as proposed by M. Kline, Treaty of the Great King. The Covenant Structure of Deuteronomy, Grand Rapids 1963; cf. also D.N. Freedman, "Divine Commitment and Human Obligation", Interpretation 18, 1964, p.427) The Old Testament material must be treated first, from the point of view of form, age and content, before any such comparisons can be valid, cf. also Zimmerli, "Das Gesetz im Alten Testament", Gottes Offenbarung, München 1963, pp. 268f.

Begrich begins by taking a stand against Pedersen,⁵⁴ who had argued that ברית denotes a relationship with mutual rights and obligations for the partners. Instead, with Begrich, ברית originally designated a one-sided relation between two men or groups.⁵⁵ The two partners were unequal, the more powerful granting the covenant relation to the less powerful, as, for example, in the cases of the Israelites and the Gibeonites (Josh. 9), Nahash and the men of Jabesh (1 Sam. 11), Ahab and the captive Benhadad (1 Kings 20: 34). Only the stronger partner to the covenant takes on an obligation, while the weaker has no duties, but remains completely passive. To this there corresponds the fact that a ברית is said to belong to the one who grants it (as 2 Sam. 3: 12), and that it is the one who gives the ברית who swears the oath (as Josh. 9: 15). The 'peace' (שלום), which is the content of the ברית ,⁵⁶ is the assurance of life, freedom, independence and so on, and the means whereby the covenant relation is set in force (e.g., by a gift of weapons and clothing, or by a common meal) is an action initiated by the guarantor of the covenant relation. Throughout, the recipient, the one to whom the covenant is granted, remains completely passive. From this can be

54 J. Pedersen, Der Eid bei den Semiten, Strassbourg 1914, p. 34

55 The specifically Israelite origin of this old significance of ברית is left open as a possibility, cf. Begrich, op.cit., p. 5 n. 2.

56 cf. bibliography in Johnson, Sacral Kingship in Ancient Israel, p. 9. n. 3.

understood the use of the preposition ל in the phrase כָּרַת
 לְבָרִית - to make a covenant for, in favour of, someone.
 This kind of covenant can be found until the middle of the
 9th century B.C. (cf. 1 Kings 20: 34), after which the
 traces of it disappear. In its place there comes a con-
 cept of the covenant which has been taken over and trans-
 formed by ideas of the treaty, a mutual contract relation.
 The approximation of the one-sided covenant as gift to
 the mutual contract was helped along by the fact that even
 the old בָּרִית, once set in force, involved a relation
 between two parties, and also by the fact that on occasions
 the בָּרִית, in its old sense, was not granted
 until certain presuppositions had been fulfilled. Such
 is the case where David was prepared to grant a covenant
 to Abner only when his wife Michal had been restored to
 him (2 Sam. 3: 13), and also where Ahab was prepared to
 free Benhadad on condition of the return of cities and
 the establishing of trading rights in Damascus (1 Kings
 20: 34). Canaanite legal thought may have accelerated
 the transformation of the concept. Also, corresponding
 to this change of sense there is a change of the old formula
 כָּרַת בָּרִית עִם or כָּרַת בָּרִית אֵל to כָּרַת בָּרִית לְ
 and this linguistic change has forced its way into contexts
 (such as 2 Sam. 3: 12) which should be understood accord-
 ing to the old significance of בָּרִית. We find the
 two meanings of בָּרִית in the tradition concerning
 the relationship between David and Jonathan: according
 to 1 Sam. 18: 3f, it was a covenant of the old, gift type,
 while, according to 1 Sam. 23: 16ff, it was a covenant
 of the later, contract type.

Therefore, the relationship between Yahweh and Israel was originally conceived of as a gift covenant with no obligations imposed on the receivers. This is to be seen from the J tradition of the Sinai covenant in Ex. 24: 1-2, 9-11.⁵⁷ However, since this relation was understood in terms of a ברית , it is quite comprehensible that the later conception of ברית should have also had an effect on the understanding of Yahweh's relation with Israel. This effect is apparent already in the E version of the Sinai covenant which is concluded on the basis of a 'book of the covenant' which makes the covenant dependent on the observance of certain stipulations. So, according to Beggich, there was no original connection of covenant and law, and even once this connection had been made one can still find, for example, in the priestly writing, that this later understanding of ברית was not consistently carried through, but was simply added

57 cf. Beggich, op.cit., p.7.

alongside the older view.⁵⁸ This was apparently because of the obvious danger that the later conception could lead to the way of thinking that Yahweh and Israel were two equal partners to a treaty with mutual obligations - a conception which has led to the expression of sentiments such as those of Ps. 44: 18ff, and Jer. 14: 21.

However, this whole theory arouses several misgivings in the arguments which are drawn in as support, especially from the linguistic point of view. The use of the preposition לְ in the phrase $\text{לְיְהוָה אֱלֹהֵינוּ}$ is by no means determinative of the kind of covenant which is being established. It is clear that such a usage would be suitable with Yahweh as the subject, but that only emphasizes the initiative which belongs to Yahweh in the making of the covenant, and says nothing of the kind of response which is to ensue from the other party. This is clear from Jer. 32: 40, where the covenant which Yahweh will establish 'for' Israel ($\text{וְכָרַתִּי לְיִשְׂרָאֵל בְּרִית}$) includes the very definite

58 Compare Gen. 9: 8-11 with vv. 12ff; Gen. 17: 1-8 with vv. 9ff.

response that Israel will not turn from Yahweh.⁵⁹ A similar case is Josh. 24: 25. Here also, Joshua makes a covenant 'for' the people (לְעַל), which includes 'statutes and ordinances' (חֻקִּים וּמִשְׁפָּטִים).⁶⁰

59 Ezek. 37: 26 would illustrate well that לְעַל and וְאֵת could be used interchangeably if the reading וְאֵת for לְעַל were certain, as is recommended by A. Bertholet, Ezekiel, HAT 1936, p.128; G. Fohrer, Ezechiel, HAT 1955, p.211, and evidenced in most MSS and versions (cf. BH³ ad.loc.). But it is more likely that

וְאֵת is a dittography of the following וְאֵת, and that nothing should be retained in place of וְאֵת. בְּרִית עֲלֵי יְהוָה makes good sense without anything further being added, cf. J. Herrmann, Ezechiel, KAT 1924, p.234, followed by G.A. Cooke, Ezekiel, ICC 1936, p.406. What the בְּרִית here includes is not certain: it may refer to the promise which follows, or it may be a summary description of what has gone before, in which case it would also refer to the ordinances and statutes mentioned in v.24, so that בְּרִית שְׁלֹמֶה would signify the harmonious state of peace existing between Yahweh and Israel as a result of Yahweh's promise and the people's response in faith and obedience to Yahweh's expressed will.

60 Begrich, op.cit., p.8, argues that the fact that both בְּרִית and חֻקִּים וּמִשְׁפָּטִים are mentioned here, and not just בְּרִית alone, shows that here we have a drawing together of two different spheres: the older gift בְּרִית, and the later contract form. But, since it is likely that חֻקִּים וּמִשְׁפָּטִים refers to a specific body of law quite apart from the general obligation to worship Yahweh alone, vv. 14, 16, 19f, it is hardly correct to hold that the בְּרִית which Joshua made for the people can mean a purely gift covenant, or that any reminiscence of such an understanding can be traced. Reference should also be made in this connection to 2 Kings 11: 4, where וַיִּכְרֹת לָהֶם בְּרִית stands parallel to וַיִּשְׁבַּע אֲתָם. Here it is perfectly clear that those to whom the covenant

Note 60 continued

was granted were laid under definite obligations, cf. E. Kutsch, "Gesetz und Gnade. Probleme des alttestamentlichen Bundesbegriffs", ZAW 79, 1967, pp. 23f.

Undoubtedly, Begrich would hold that in passages such as these there is a linguistic hangover from the older בְּרִית conception which is used to express the later view of

בְּרִית as a contract. But against this it may be argued that there is absolutely no evidence that the form

כָּרַת בְּרִית לְ (or עָם) is any older than the form כָּרַת בְּרִית אֵת, or indeed that the change in expression necessarily implies a change in meaning.⁶¹ One further

point as regards the language used is that when a בְּרִית is designated as belonging to someone this does not necessarily mean that the one so designated is the giver of the covenant. Thus, in 1 Sam. 20: 8 בְּרִית־יְהוָה refers to the covenant between David and Jonathan, and the reason for it being called a 'covenant of Yahweh' is simply that the covenant was sworn before Yahweh, who thereby assumed the role of protector and overseer of its implications.⁶²

61 cf. Quell, "Der alttestamentliche Begriff בְּרִית", p.109; Jepsen, op.cit., p. 172 n.13.

62 cf. also Is. 34: 16 where, if we follow the very plausible interpretation of Hillers, op.cit., pp. 45ff, the words סֵפֶר יְהוָה should be understood as the 'Covenant inscription of Yahweh', referring to the text of a treaty between Israel and Edom to which the prophet directs his listeners for the source of his oracle of doom against Edom, a treaty which had been sworn in the name of Yahweh; cf. also Ezek. 17: 19, where Yahweh speaks of a covenant between Zedekiah and Nebuchadnezzar (cf. v.13) as "my oath..... and my covenant" (אֶזְכְּרֶנּוּ וְגִבֹּרֵתִי); and also Jer. 34: 18. The latter case is more doubtful. It may refer to the covenant between king and people "that everyone should set free his Hebrew slave" (v.9), but it may also refer to the covenant mentioned in v.13, which Yahweh had made with Israel's fathers that they should set free Hebrew slaves after six years' service, cf. Baltzer, op.cit., pp. 62ff.

But the fundamental objection may be raised against Begrich's attempt to arrange all the covenant records of the Old Testament into a system whereby an earlier gift covenant was replaced by a later contract covenant. This will not work for the reason that ברית ⁶³ covers different types (or, perhaps, rather, expressions and aspects) of covenant,⁶⁴ and it is impossible to say that one particular type is earlier or later than another.⁶⁵ It is this which made the word suitable for religious purposes⁶⁶ alongside its

63 For which 'covenant' is a paraphrase rather than a translation.

64 cf. the examples cited By Hillers, *op.cit.*, p.82

65 Thus, it cannot be proved that, e.g. the tradition of Isaac's covenant with Abimelech is later than the 'gift'-type covenant, cf. Schmitt, Der Landtag von Sichem, Stuttgart 1964, p.65; von Rad, Old Testament Theology vol. 1, p. 134; Zimmerli, The Law and the Prophets, p.91

66 On the inadequacy of the distinction 'religious' and 'legal' covenants, cf. Quell, "Der alttestamentliche Begriff ברית ", pp. 109f, who argues instead for the distinction 'theological' and 'legal' since the latter is surrounded by religious ceremonies, oaths, etc., while in the former legal categories are employed to explain a religious state of affairs; cf. also Jepsen, *op.cit.*, p.169.

continuing use for ordinary transactions.⁶⁷ The word occurs in the early tradition of Jacob's covenant with Laban⁶⁸ in Gen. 31: 43-54. This is a JE tradition which may be divided into a story of Jacob's marriage contract for Laban's daughters⁶⁹ (vv. 43-45, 50, 53b, 54 E), and a story of the fixing of a boundary which each partner agreed to respect and not to pass (vv. 46, (47-49), 51-53a J)⁷⁰. Only E uses the word בְּרִית (v. 44), though it is clear that it is a covenant relationship which is described also in J. Both of them are mutual contracts, and both include stipulations. But it was not necessary, even in this two-sided, mutual type of covenant, for the conditions and stipulations to be expressed. They could be presupposed as self-evident.⁷¹ The covenant relation created 'a fictional blood-relationship',⁷² and so the partners would

67 Koehler, op.cit., pp. 5f, argues that בְּרִית came eventually to be used solely for the Yahweh covenant, and that its place was taken for ordinary legal purposes by הַבְּרִית. However, this distinction seems untenable and is contradicted by such usages of בְּרִית as Mal. 2: 14; 2 Chr. 23: 1, in later time.

68 For a suggested background, cf. Noth, Überlieferungsgeschichte des Pentateuch, pp. 100ff.

69 For this as a specific marriage contract form, cf. Gerstenberger, Wesen und Herkunft des 'apodiktischen Rechts', WMANT 1965, p. 106.

70 On the source division, cf. that given in Noth, Überlieferungsgeschichte des Pentateuch, pp. 31, 38

71 cf. Gerstenberger, op.cit., pp. 92, 105

72 cf. Quell, "Der alttestamentliche Begriff בְּרִית", p. 116.

behave towards each other as brothers would; ⁷⁰ ⁷¹ ⁷² was expected of each partner who was called upon to act accordingly in his dealings with the one with whom he had made a covenant.⁷³ So it is quite clear that a narrow conception will not cover satisfactorily the different expressions of covenant for which ⁷⁴ ⁷⁵ ⁷⁶ is used.

73 cf. Würthwein, "Der Sinn des Gesetzes im A.T.", p. 226; Eichrodt, "Covenant and Law", Interpretation 20, 1966, p.306; Quell, "Der alttestamentliche Begriff ⁷⁷ ⁷⁸ ⁷⁹ ", p.113

74 Noth has pointed out another type of covenant in the Mari texts for which he finds parallels in the Old Testament; cf. Noth, "Old Testament Covenant Making in the Light of a Text from Mari", pp. 114ff. In this type a third party mediates a covenant between two others who are inferior to him. In the Old Testament, this type is found, however, where a third party mediates a covenant between God and Israel, so that here the third party is not superior to the covenant partners. This type is clear in Josh. 24: 25, where "for Yahweh and the people" has been abbreviated to just "for the people" in order to avoid the danger of making both parties to the covenant equal (against this view, however, cf. Baltzer, op.cit., p.32 n.4; Schmitt, op.cit., p.29 and n.6, who argues that Joshua is here the representative of Yahweh acting in his name, and not a third party in Noth's sense, and that consequently the Mari text contributes nothing here. There can only be a third party between two equal partners, and Joshua thus has the same office as Moses at the Sinai covenant; cf. also L'Hour, "l'Alliance de Sichem", RB 69, 1962, p.29). A second possible example to which Noth draws attention is 2 Kings 11: 17, which, according to Noth, originally read "the priest Jehoiada enacted the covenant between king and people" (however, on this verse cf. further, below, ch. 3 n.43). Wolff, "Jahwe als Bundesvermittler", VT 6, 1956, p. 317, finds another and closer parallel to the Mari type in Hos. 2: 20a (EVV 18a), where Yahweh,

Note 74 continued

as the superior third party, mediates a covenant between men and animals (on the significance of this covenant cf. E. Rohland, op.cit., p.42). However, the function of Yahweh in such a covenant is obscured by the fact that e.g. in Sfiré Stele I B, lines 5ff, the treaty between Bar-Ga'ayah and Mati'el is called "the treaty of the gods which the gods made" (cf. text in McCarthy, Treaty and Covenant, p.191); and the covenant between David and Jonathan is known as a covenant of Yahweh (1 Sam. 20: 8). Wolff, "Jahwe als Bundesvermittler", p.319, argues that the idea of covenant mediation is tradition-historically older than that of covenant granting and that of the treaty covenant; but cf. Baltzer, op.cit., p.33 n.1. On the place and function of Yahweh in Hos. 2: 20, cf. also E. Kutsch, "Der Begriff מִן־יְהוָה in vordeuteronomischer Zeit", Das ferne und nahe Wort (Festschrift L. Rost, herausgegeben von F. Maass), BZAW 105, 1967, pp. 138f.

We have treated Begrich's theory at some length because it represents the same kind of treatment as that of Jepsen, and because the objections we have raised against Begrich's view of the history of the covenant apply also in large part to the theory postulated by Jepsen.⁷⁵ Also here there is a failure to recognize different types of covenant, and to distinguish between what Mendenhall has called the 'promissory' and 'suzerainty' covenants.⁷⁶ Against Begrich, Jepsen argues⁷⁷ that we often find two-sided covenants, as in 1 Kings 5: 26 (EVV 12); Gen. 21: 27, 32; 31: 44; 1 Sam. 23: 18. Two parties could make a covenant with each other, but what is involved is the giving of promises to each other, the taking on of an obligation (not the imposing of one).⁷⁸ The נִדָּן is not a state, but an act of promise.⁷⁹ No change is necessary in the concept when it is applied to God, where it also denotes God's promise, as, for example, in 2 Sam. 23: 5. However, it is here that Jepsen's argument becomes somewhat confusing; for he holds that from the beginning there was one obligation inherent in the revelation of God to Israel at Sinai when he promised to be their God: namely, the exclusive worship of Yahweh.⁸⁰

75 Jepsen, op. cit.,

76 Mendenhall, "Covenant", p. 717

77 Jepsen, op.cit., pp. 162f.

78 *ibid.*, p. 165

79 *ibid.*, p. 166

80 *ibid.*, p. 174

This ברית was not only a promise but also a command. But, Jepsen continues, ברית was not originally used to describe the relationship of Yahweh and Israel instituted at Sinai. Its use in this sense can be traced first in Hosea, but it cannot be said how long before that that this connection of Sinai tradition and ברית concept took place.⁸¹ Why ברית , the use of which to describe a mutual relation Jepsen does not and cannot deny, was chosen as the designation of God's promise to Israel, Jepsen does not explain. He points out⁸² that the word is used for God's promises to Noah, the patriarchs, Moses and David. Thus, God's promises accompanied the history of Israel, and so it was natural to use ברית to describe the Sinai revelation promise. But with the latter a new element comes in, Israel's obligation to serve Yahweh alone. However, a close connection of ברית with obligatory law Jepsen admits only for some late passages, such as Gen. 17: 9-14; Josh. 7: 11, 15 and Ps. 132:12, which does not, however, change the basic sense of the ברית .

81 *ibid.*, p. 175; cf. also G. Henton Davies, "The Yahwistic Tradition in the Eighth Century Prophets", Studies in Old Testament Prophecy (presented to T.H. Robinson), Edinburgh 1950, pp. 41f, who suggests that it was only late in the history of the tradition that ברית was used to describe Yahweh's relationship to Israel; cf. also J.N. Schofield, Introducing Old Testament Theology, London 1966, p.46, who emphasizes, however, that "the reality they (i.e. ברית and ברית) express.....appears to have been a basic element in Old Testament religion".

82 *ibid.*, p.176

The difficulties into which Begrich and Jepsen fall in the pursuit of their theories can, it seems, only satisfactorily be solved on the basis of the assumption that right from the beginning there were different ways of expressing a covenant relationship, not only in the secular sphere but also in the religious sphere. God's covenant with Abraham (Gen. 15) and with David (2 Sam. 7) are indeed expressed as unconditional promises,⁸³ but the covenant with Israel was one which from its inception was conditioned by Israel's fulfillment of the righteous demands of Yahweh. Indeed this covenant was also conceived of as a gift, but, nevertheless, as a gift which laid demands upon the recipients,⁸⁴

83 Though in the case of the latter this statement must be modified in view of the conditional presentation of this covenant especially in Ps. 132, cf. below pp.392f.

84 cf. Zimmerli, "Das Gesetz im Alten Testament", p.270; P. van Imschoot, Théologie de l'Ancien Testament, 1954, pp. 244-255. An attempt to classify the usages of ברית has also been made by Kutsch, "Der Begriff ברית in vordeuteronomischer Zeit", Das ferne und nahe Wort, pp. 133-143. Kutsch finds three uses of the word in the context of covenants between men, in which it can denote (a) the obligation taken on by oneself (promise); (b) the obligation laid on another; and (c) the obligations taken on by both parties. In the context of the covenant between God and man the usages of the word correspond only to (a) and (b) above. Thus, the significance of the word in the context of the Sinai covenant is that of (b). Even if one were to agree with Kutsch that the Sinai ברית is to be understood simply and solely as the obligations laid on the people, and were not rather to take the word in a wider significance as the particular definition of an already existing relationship, it seems, nevertheless, that the conclusion drawn by Kutsch (ibid., p.143) that it is unlikely that the idea of a Yahweh covenant was a significant one in Israel from its early time, is not necessarily suggested by the evidence he brings forward. On the law as an essential, and original, constituent of the covenant between Yahweh and Israel, cf. below, pp.320ff.

with the threat of the curses for disobedience,⁸⁵ It is against this background of the law, as an original constituent of God's relationship with Israel that we must understand the demands and condemnations of the prophets.⁸⁶

85 That the law took on a threatening aspect first with the prophets, as von Rad, Old Testament Theology vol. 2, pp. 136, 178f, 268f, 400ff, argues, is contested by Clements, Prophecy and Covenant, p.81. Surely the very existence of a law involved the threat of sanctions for disobedience. Schmitt, *op.cit.*, pp.74f, holds that blessing and curse had a place in Israel's cult from the beginning, but that it took the form of unconditional blessing over the people (Nu. 6: 24-26) or over the tribes (Deut. 33), and the curse over the enemies, over the rebellious (Judg. 5: 23), but that had nothing immediately to do with law recitation or covenant conclusion. But this takes too little account of Deut. 27: 14ff, a passage which it is not sufficient to treat in a purely literary-critical way, as Schmitt does, *op.cit.*, pp. 73f.

86 McCarthy, "Covenant in the Old Testament, The Present State of Enquiry", CBQ 27, 1965, p.232, denies that the absolute fidelity and obedience demanded by the prophets "can only have flowed from the covenant relationship"; cf. also Gerstenberger, *op.cit.*, p.107 n.5. However, this seems to presuppose a too narrow conception of covenant. If we understand this as a relationship, initiated by God, to which certain moral and ethical conditions were attached for its preservation, there can hardly be any more suitable background than that for the prophetic demands. This does not mean, of course, that we here agree with R. Bach, "Gottes Recht und weltliches Recht in der Verkündigung des Propheten Amos", Festschrift Günther Dehn, Neukirchen, 1957, pp. 23ff, that in his condemnations Amos was appealing to apodictic rather than casuistic law, cf. Gerstenberger, *loc. cit.*; Clements, Prophecy and Covenant, p. 76 n.2. The pervasive influence of the covenant and its effect on all walks of life, including the 'secular' administration of justice, to which the case law belonged, should not be underestimated.

One point on which so far we have not touched is why the word ברית appears so seldom before the exile, and only twice, with reference to the divine covenant, in the pre-exilic prophets (Hos. 6: 7; 8:1). While the answer to this cannot be certain, it seems most likely that ברית, associated as it was with ordinary legal contracts, had, in the popular mind, led to a conception of the religion according to which Yahweh was under just as much obligation to keep the covenant as was Israel. It had become a real treaty relation between equals, so that Yahweh could even be accused of breach of treaty, as in Ps. 44: 18 and Jer. 14:21.⁸⁷ Such a perverted understanding of the covenant would naturally make it impossible for the prophets to use the term.⁸⁸

87 Begrich, op.cit., p.9, suggests that the prophet is here quoting from a popular song of lament.

88 cf. Eichrodt, Theology of the Old Testament vol. 1, pp. 47, 51; Bright, "Hebrew Religion", IDB vol. 2 p.565; Quell, "Der alttestamentliche Begriff ברית", p.111 n.27; Hempel, op.cit., col. 1516; Lindblom, Prophecy in Ancient Israel, pp. 329f. This may be the case in Mic. 2: 7, for which cf. A.S. van der Woude, "Micha II 7a und der Bund Jahwes mit Israel", VT 18, 1968, pp. 388-391. However, against this, cf. Fohrer, "'Amphiktyonie' und 'Bund'", ThLZ 91, 1966, cols. 894ff, who thinks that Eichrodt's explanation is too simple. (cf. also Kutsch, "Der Begriff ברית in vordeuteronomischer Zeit", pp. 142f). According to Fohrer, it was not Sinai, but exodus, which became the confession of Israel after settlement. The Sinai covenant was a historical event which served to constitute the people Israel; but after having done this, it faded into the background. However, the weakness of this lies in that one has then to ignore the very strong covenant tradition to which the Sinai event gave rise.

Having discussed the use of נִיָּן in the Old Testament, and seen how it is impossible to posit a unilinear development in its significance, it is now time to turn to the question of how Israel in the pre-monarchy period understood and expressed this covenant between Yahweh and herself.

(iii) Literary and Historical Treatment of Josh. 24

A chapter of supreme importance, falling within the period of the judges, at least from the point of view of its present position in the Old Testament, is Josh. 24. Here not only does the word נִיָּן occur (v.25), but the whole chapter has to do with the concluding of the covenant with Yahweh.⁸⁹ But before anything can be said about the significance of this passage for our present purposes, the critical problems connected with the literary and traditio-historical treatment of the chapter must be investigated. At the moment we can only hope to show where we think the balance of probability lies, for the problems involved here are so complex, and the opinions expressed on them so diverse, that it would be presumptuous to imagine that any final solution, gaining acquiescence from all quarters, can be reached.

89 However, even this has been disputed. Pedersen, Der Eid bei den Semiten, p.61, has interpreted v.25 in the sense that Joshua bound the people to himself and had them acknowledge him as leader. But the context is wholly against this interpretation.

These questions concern both the internal criticism of the chapter, from a literary and traditio-historical point of view, and the present context of the chapter as a whole. We deal first of all with the text of Josh. 24.

In v.1a, instead of יְהוָה אֱלֹהֵינוּ LXX reads $\epsilon\acute{\iota}\varsigma \Sigma\eta\lambda\omega$ (cf. also v.25). That the change is due to the influence of the preceding chapters is generally accepted.⁹⁰

90 cf. S. Holmes, Joshua, The Hebrew and Greek Texts, Cambridge 1914, pp. 8, 78: "a harmonistic alteration with reference to 18: 1, 10; 19: 37; 21: 2; 22: 9, 12"; Rowley, From Joseph to Joshua, p.125 n.4. Möhlenbrink, "Die Landnahmesagen des Buches Josua", pp. 254ff, prefers the reading of LXX. However, it is not only because of the explicit reference to Shechem in MT that the event must be localized there. The phrases: "Yahweh the God of Israel", (cf. Noth, Das Buch Josua, p.139; cf. Gen. 33: 20), and

יְהוָה אֱלֹהֵינוּ (v.14 - on this as a specifically Shechemite phrase which occurs otherwise, in reverse order, only in Judg. 9: 16, 19, cf. Nielsen, Shechem, p.101; L'Hour, op.cit., p.26), together with the motif of the putting away of the foreign gods (cf. Gen.35: 2ff), also point to the accuracy of the MT location of this event. Furthermore, the fact that the previous chapters of Joshua deal with events at Shiloh would, if anything, confirm the reading "Shechem" in Josh. 24: 1.

Vlb is not necessarily a doublet to v.1a, since the former refers to the heads of the people who have been called forth from the gathered tribes; however, the list of officials conforms so closely to that of Josh. 23: 2⁹¹ that deuteronomic influence must be assumed.⁹² It may be, however, that $\{87\dot{u} \cdot \ddot{u}j\dot{u}\}$ is original.⁹³

"Before God" at the end of the verse may mean 'before the ark', but it is more probable that it simply means that this was a sacral act, carried out in the sanctuary by Shechem.⁹⁴

In v.2 "Terah the father of Abraham and the father of Nahor" is clearly a badly inserted addition,⁹⁵ which was probably inserted in order to exculpate Abraham from the

91 Josh. 23: 2 varies only in reading $\ddot{u}j\dot{u}\dot{u}\dot{u}$ instead of $\{87\dot{u} \cdot \ddot{u}j\dot{u}\}$ in Josh. 24: 1.

92 cf. Nielsen, Shechem, p.79; Noth, Josua, p.135.

93 cf. Schmitt, Der Landtag von Sichem, p.57

94 cf. Keil and Delitzsch, Joshua, Judges, Ruth, Edinburgh 1869, p.227; Smend, Jahwekrieg und Stämmebund, p.66 n.61; L'Hour, op.cit., p.23

95 It goes back to Gen. 11: 27f, according to Hertzberg, Die Bücher Josua, Richter, Ruth (ATD 9), Göttingen 1959, p.134; cf. also Noth, Josua, p.135; and, for a different view, L'Hour, op.cit., p.24 n.101.

charge of serving other gods.⁹⁶ The phrase לְאֱלֹהִים
97
 מִן־הָאֱלֹהִים may reveal deuteronomistic influence.

In v.4ba, the phrase לְרַשָּׁתָּאֹתוֹ may also be a sign
98
 of deuteronomistic editing.

At the end of v.4 LXX adds וַיְהִי שֵׁם לְעַם גְּדוּלַּת וְרַב יְחִיָּה וַיִּרְעוּ
99
 אֹתָם . Whether or not this passage,
 which is very reminiscent of Deut. 26: 5b though there are
 differences, belonged here originally is difficult to say.
 It could conceivably have been omitted by homoioteleuton,¹⁰⁰
 and it would certainly form a good transition to v.5.
 However, this very fact would support the more probably
 correct assumption that the addition by LXX is a later
 insertion made on the basis of Deut. 26: 5b.¹⁰¹

96 cf. Schmitt, op.cit., p.10; Rudolph, Der 'Elohist
von Exodus bis Josua, BZAW 68, 1938, p.245.

97 On this as a deuteronomistic phrase, cf. Nielsen,
Shechem, p.103. However, Noth, Josua, p.139, argues,
 in view of Ex. 20: 3, that it is not first deuterono-
 mistic; cf. further below, ch.3.

98 cf. Noth, Josua, p.135, and the list of parallels
 given in Schmitt, op.cit., p.16.

99 καὶ ἐγένοντο ἐκεῖ εἰς ἔθνος μέγα καὶ πολὺ καὶ κραταῖόν. καὶ ἐκάκωσαν
 αὐτοὺς οἱ Αἰγύπτιοι.

100 cf. Holmes, op.cit., p.78

101 cf. also Rudolph, op.cit., p.246 n.1.

The first clause of v.5: "And I sent Moses and Aaron" is missing in LXX. Since there is no apparent reason why LXX should have omitted it,¹⁰² it seems best to understand that the words were subsequently added to MT.¹⁰³ For

אֲנִי וְאַהֲרֹן in v.5 LXX^B reads ἐν οἷς (אֲנִי וְאַהֲרֹן), which amounts to much the same thing; but LXX^A reads σημειοῖς before οἷς, which has led some¹⁰⁴ to change MT to אֲנִי וְאַהֲרֹן, as in Nu.14: 11, (cf. also Ex.3: 20). It is possible that LXX^A is here attempting to clarify the text¹⁰⁵ (in favour of which stands LXX^B reading), and probably the author of the present MT thought that a cryptic allusion, like אֲנִי וְאַהֲרֹן, was all that was necessary here.

102 The view that the omission was accidental, on account of the similarity of אֲנִי and אֲהֲרֹן as the first words of clauses (so Schmitt, op.cit., p.8) seems hardly likely.

103 cf. von Rad, "Das formgeschichtliche Problem des Hexateuch", *Gesammelte Studien*, p.14, where he omits the phrase (no note is made of this omission in the E.T. of von Rad's work: "The Form-Critical Problem of the Hexateuch", *The Problem of the Hexateuch and Other Essays*, p.6); von Rad is followed by Noth, *Überlieferungsgeschichte des Pentateuch*, p.172 n.446; Rudolph, op.cit., pp. 245f. L'Hour, op.cit., p.24 n.101, argues on the basis of Mic. 6: 1ff, that the reference to Moses and Aaron could be traditional. But this scarcely gets rid of the problem.

104 cf. Noth, *Josua*, p.136 app.crit.

105 So Rudolph, op.cit., p.244 n.2; cf. also L'Hour, op.cit., p.24 n.101.

The last clause of v.5 וְאַתָּה הוֹצֵאתָ אֶתְכֶם, and the beginning of v.6 וְאַתָּה הוֹצֵאתָ אֶתְכֶם, present a doublet. As well as that they bring to notice another difficulty of vv. 5-7: the alternation of 'you' and 'your fathers'. Also, there is the reading וְהוֹצֵאתָ in v.7, although vv. 2-13 are supposed to be the speech of Yahweh, and indeed Yahweh is otherwise in first person.

וְאַתָּה הוֹצֵאתָ אֶתְכֶם (v.6) is missing in LXX^A, while LXX^B supports neither variant, but combines the two to get the reading καὶ μετὰ ταῦτα ἐξήγαγεν τοὺς πατέρας ἡμῶν. On the basis of vv. 5-7 arguments have been erected for the theory of two parallel sources in Josh. 24.¹⁰⁶

106 So Smend and Eissfeldt, and also Noth at an earlier stage, cf. Das System, pp. 134f, though by using different criteria. Working from MT and LXX, Noth argued that v.7 shows that Yahweh in the third person belongs to the "you" speech (וְהוֹצֵאתָ is to be emended to וְהוֹצֵאתָ, Das System, p.135; however, in Josua, p.137, Noth held that Yahweh in the third person belongs in the context of the "fathers"). Comparison with LXX then leads to the change from וְהוֹצֵאתָ to וְהוֹצֵאתָ in v.5b. From this Noth concluded that the "your fathers" speech belongs to the E basis of the chapter which formulated vv. 2-13 as speech of Yahweh. Vv. 5b, 6ab, 7, on the other hand, represent another source in which Joshua speaks of "you" and of Yahweh in the third person. But it may be questioned to what extent the reading of LXX is due to later harmonization (LXX follows MT in the use of the first or third person for Yahweh only in vv. 3, 4, 7, but it is not clear how far LXX was influenced throughout by the reading וְהוֹצֵאתָ in MT v.7. Also in vv. 6-12 LXX varies, in its use of "we" or "you". But these variations occur mostly in the use of the pronouns ἡμεῖς and ὕμεῖς which are often confused, and only once in a verbal

Note 106 continued

form ἀρεβοῦσάμεν (v.7), which may be a mistake for ἀρεβοῦσαν, cf. Rudolph, op.cit., p.245; Schmitt, op.cit., p.10). MT itself may have been subject to harmonization, in which case the reading יהוה יז in v.7 may be accounted for in one of three possible ways: it may have arisen from an original יהוה when the final י was taken as an abbreviation for יהוה (this, in spite of Noth, Josua, p.137, is very possible; cf. the examples of this given in Driver, Notes on the Hebrew Text of the Books of Samuel, Oxford, 1960, p.lxix n.2); a second possibility is that the phrase יהוה יז is quoted from Ex. 14: 10 (so Hertzberg, op.cit., p.134); the third possibility is that Yahweh here stands in the third person because it is only here that he appears as the one acted upon, rather than the one acting (cf. Noth, Das System, p.135; Nielsen, Shechem, p.88 n.2). L'Hour, op.cit., p.24, argues that it is due simply to the redactor losing sight of the Sitz im Leben. But that would not explain why Yahweh is in the third person only at this particular point.

Another approach is to see in vv. 5-7 the work of a redactor, in which he smoothed over the difficulty of the change of address in vv.14ff., where Israel is directly addressed. In pursuit of this aim the redactor spoke of the 'fathers' before the Reed Sea incident, and of 'you' thereafter.¹⁰⁷ Others solve the difficulty by saying that the alternation of 'you' and 'your fathers' came about as a direct result of the text being removed from its original Sitz im Leben in the cult of Israel, and turned into historical narrative, which meant that the "direct application of the history to the listeners recedes into the background."¹⁰⁸ But this does not explain why it is precisely here and not throughout that this should have happened, nor does it get rid of the difficulty of the doublet at the end of v.5 and the beginning of v.6, and the one occurrence of Yahweh in third person in v.7. It seems that the solution offered by Rudolph¹⁰⁹ is still the most satisfactory. He argues that just as v.5 refers only briefly to the plagues in Egypt, so in v.7 the miracle at the Reed Sea was only hinted at originally. Consequently, the last sentence of v.7a: "and your eyes saw what I did in Egypt", is to be regarded as having been

107 cf. L'Hour, op.cit., p.24

108 cf. Nielsen, Shechem, pp.88f; Newman, The People of the Covenant, pp. 114f.

109 Rudolph, op.cit., pp. 244f; followed by Schmitt, op.cit., p.10.

connected originally to the previous 'you' clause in v.6ab: "and you came to the sea". Everything in between has been introduced from Ex. 14. This glossator uses the phrase 'your fathers' (אֲבוֹתֵיכֶם is to be read for אֲבוֹתֵינוּ in v.7), and so he is also responsible for the insertion of v.6aa: "and I brought your fathers out of Egypt", which he formed on the basis of v.5b as a transition to what he wanted to introduce. In conformity with v.5b he retained the first person singular for Yahweh in v.6aa.

The last clause of v.8 $\text{וְיָצֵאתִי מִן־מִצְרָיִם}$ reads like an appendix to the rest of the sentence, and should be taken as deuteronomistic.¹¹⁰

Noth has argued for the deuteronomistic editing of vv. 9-10, dealing with the Balaam story. Rejecting his earlier denial¹¹¹ that these verses represent an independent tradition, he argues¹¹² that v.10bb was originally connected directly to v.9a, while what comes in between is deuteronomistic, being closely related with Deut. 23: 5f, especially in the use of לִפְנֵי instead of לְפָנַי , as in Nu. 22-24, and in the similarity of expression v.10a.¹¹³ Thus Noth concludes that originally these verses told of an actual

110 cf. Noth, Josua, p.135; and the list of parallels in Schmitt, op.cit., p.16

111 Noth, Das System, p.134

112 Noth, Josua, p.135

113 cf. also Noth, Überlieferungsgeschichte des Pentateuch, p.85 n.226.

warlike encounter between Balak and Israel, a tradition not preserved elsewhere, but contradicted directly by, for example, Judg. 11: 25. But it is not altogether certain that v.10bb should directly follow on v.9a. In such a case the expected conclusion would be: "and I gave him into your hand", as in vv.8b, 11b, rather than "and I saved you from his hand."¹¹⁴ In the present case the suffix on the last word of v.10 is best taken as referring to Balaam.¹¹⁵ Furthermore, the use of וַיִּלָּחֶם in v.9 does not necessarily record an actual battle of Balak against Israel. Its use here may be inchoative with the sense that Balak was going to fight against Israel, and as a first step thereto he sent for the seer Balaam to curse his enemies.¹¹⁶ But even if we do agree that the verses may not be divided by literary-critical means, the connection with Deut. 23: 5f cannot be overlooked, and there is a closer relationship to the latter than to the Pentateuch narrative in Nu.22-24.¹¹⁷

114 cf. Nielsen, Shechem, p.95 n.2.

115 This in spite of Noth, Überlieferungsgeschichte des Pentateuch, p.85 n.226, who argues that Yahweh did not have to save Israel out of the hand of Balaam, if Balaam had had to bless Israel. The last clause may, however, be translated: "and so I delivered you from his hand", cf. Nielsen, Shechem, p.95

116 So Nielsen, *ibid.*, followed by Schmitt, *op.cit.*, p.11, who, in n.10 gives further examples of this use of the imperfect for an intended action. Though against this, cf. W.L. Moran, "Review of Schmitt, Der Landtag von Sichem", Bib. 47, 1966, p.600.

117 To strike out v.10a only as a supplement from Deut. 23: 6, as Rudolph, *op.cit.*, p.246, suggests, does not account for the connection in the use of וַיִּלָּחֶם and not וַיִּשָּׁלַח .

A number of points in v.11 have to be considered. First of all, the record of the battle with Jericho does not conform with the presentation of it in Josh. 6. According to the latter version this battle was not, as it is here described, initiated by the inhabitants of Jericho. Furthermore, the phrase בַּעֲלֵי-יְרִיחוֹ does not occur in the Josh. 6 story.

The second point is that, according to the present text of Josh. 24: 11, the list of peoples stands in apposition to בַּעֲלֵי-יְרִיחוֹ which, of course, is impossible. But if, on the other hand, a וְ is inserted before הָאֲמֹרִי this section of v.11a becomes a record of the conquest of all west-Jordan, and so an anticipation of v.12.¹¹⁸ On the other hand, this list of peoples in v.11 is presupposed by the אֲנִי of v.12. But v.12 itself is not without its difficulties. V.12aa may be compared with Ex.23:28 וְשָׁחֲטִי אֶת-הַצִּרְעָה לְפָנַי וְגִרְשָׁה אֶת-מִצְרַיִם. Further, in v.12ab there is an awkward second object, and v.12b seems to be based on Gen. 48:22. It seems that the best course to adopt to resolve these difficulties is to regard the list of peoples in v.11 as an insertion¹¹⁹

118 cf. Rudolph, op.cit., p.246

119 Not simply displaced from v.12, where it should be read instead of the "two kings of the Amorites", as Rudolph, op.cit., p.247, argues; cf. Noth, Das System, p.139; idem, Josua, p.135; L'Hour, op.cit., p.25. That a list of peoples such as this was a traditional way of describing the victory in west-Jordan, as Schmitt, op.cit., p.11, emphasizes, is not hereby denied. But that does not make the list any more authentic in its present context.

which led to the introduction of גִּרְגַּשִׁיטִּים in v.12, the whole (i.e., the list of v.11 and v.12aa to בְּנֵי יִשְׂרָאֵל) having been brought in to serve as fulfillment of the promise of Ex. 23: 23ff., and of Josh. 3:10, and having been formed on the basis of the latter two passages. The relatively late age of this insertion may be indicated by the fact that, except perhaps for Gen. 15: 21, it is only in deuteronomistic and later literature that the Girgashites are mentioned in such lists of conquered or to-be-conquered peoples.

This leaves the enigmatic "two kings of the Amorites", as well as v.12b, still to be discussed. For the former, LXX reads "the twelve kings of the Amorites". How LXX arrived at this number is not certain: it may have been attained through "very free connection to the narrative of Josh. 1-12", ¹²⁰ which would include the five kings of Josh. 10: 3ff, the four of Josh. 11: 1, together with those of Jericho, Ai and Gibeon (so leaving aside the twenty-nine or more kings of Josh. 12). However, since the existence of a king of Gibeon is made questionable by Josh. 9: 11; 10: 2, ¹²¹ it is perhaps better to understand that the twelve of LXX was a fixed traditional number of kings. This is supported by Assyrian records on Syria and Palestine, which often speak of twelve kings even if there were really only eleven. ¹²² However, since it is easier to understand a change made by LXX from two to twelve, than one made by

120 Noth, *Josua*, p.135

121 cf. Rudolph, op.cit., pp. 246f.

122 cf. Schmitt, op.cit., p.8, with references.

MT from twelve to two at this particular point, it seems better to prefer the MT reading here and to consider it as a gloss which belonged originally to v.8, referring to Sihon and Og.¹²³

The last phrase of these two verses: "not with your sword nor with your bow", reveals its secondary character immediately by its use of the singular suffixes (which may be responsible for the reading לְיָדְךָ in v.13). The phrase is a gloss based on Gen. 48: 22, and is probably polemical against the view expressed there.¹²⁴

Thus, we would retain for vv. 11, 12 simply the reference to the battle with Jericho, which, due to its 'fundamental character',¹²⁵ would be sufficient reference to the conquest for the purposes of this concise historical review.

The similarity of v.13abb and Deut. 6: 10f has often been pointed out,¹²⁶ but it would be difficult to separate v.13aa

123 cf. Rudolph, op.cit., p.247

124 cf. Nielsen, Shechem, pp. 90, 97, 295. Was the reference to the Amorites attracted to a place just before this phrase on account of the connection of the two in Gen. 48: 22?

125 Nielsen, Shechem, p.96

126 cf. Noth, Josua, pp. 135f; L'Hour, op.cit., p.25. Baltzer, op.cit., p.30 (followed by J.A. Thompson, The Ancient Near Eastern Treaties and the Old Testament, London 1964, p.34), has objected to this arguing that we have in both passages items of ancient property lists, though that of Josh. 24: 13 has been extended by additions.

as alone being original. Amos: 5: 11; Zeph. 1:13 and Mic. 6:15 show, however, that this particular style of speech is not specifically deuteronomic,¹²⁷ but belongs rather to a preaching style which is used by both the prophets and Deuteronomy.

In his work on the Hexateuch, von Rad has noted several passages in which some part of the history of Israel is recited. This recital is presented as a profession of faith, and it has a definite form which changes only in minor details.¹²⁸ To demonstrate this, von Rad picks out three texts: Deut. 26: 5b-9; 6: 20-24; and Josh. 24: 2b-13. This profession of faith, the common form of which is deduced from these passages, had, according to von Rad, its Sitz im Leben in a cultic ceremony, and from it there developed the Hexateuch as we now have it.

It is not our intention to enter into all the implications of, and objections to, von Rad's thesis at this point,¹²⁹

127 So Rudolph, op.cit., p.247

128 von Rad, "The Form-Critical Problem of the Hexateuch", pp. 3-8.

129 cf. e.g., Vriezen, De godsdienst van Israël, Arnhem 1963, pp. 104-107; Brekelmans, "Het 'historische Credo' van Israël", Tijdschrift voor Theologie 3, 1965, pp. 1-10, who argue that the credo is a late development; cf. further, Weiser, Introduction to the Old Testament, (E.T. London 1961), p.84, who holds that the so-called credo is a 'historicizing' of an agricultural rite, which is a "secondary and later process in the history of religion and of form and transmission"; cf. also J. Barr, Old and New in Interpretation, London 1966, pp. 65ff, 74 and n.1;

Note 129 continued

L. Rost, "Das kleine geschichtliche Credo", Das kleine Credo und andere Studien zum Alten Testament, Heidelberg 1965, pp. 12ff. The latter sees Deut. 26: 5, 10 as the oldest part of this unit, into which vv. 6-9 were brought later, probably at the time of Josiah. Vv. 6-9 are not so much a confession as a constant reminder of the saving work of Yahweh and a warning against forgetting his great acts.

but it may merely be said that the 'form' which von Rad discerns in the passages quoted is not really so fixed as he attempts to show, unless, that is, the 'form' consisted simply of something like 'Yahweh brought us out of Egypt and gave us this land', which can really tell us nothing beyond the fact that at some time or other in the course of their history Israelites interpreted these two incidents as saving acts of Yahweh. Indeed, one has the impression that what von Rad means when he writes of the 'form' of the 'credo' is the fact that in these passages there is no reference to the Sinai event. This is also true of Josh. 24: 2b-13, but, on the other hand, the very real differences between this passage and Deut. 6: 20-24; 26: 5b-9 should not be overlooked. The most noticeable are: unlike the other passages, here the recital begins with Abraham, and goes on to tell of Isaac, Jacob and Esau; there is no reference here to Jacob and his family becoming a great and mighty nation, nor to the oppression by the Egyptians (unless the LXX addition at the end of v.4 is adopted as original), nor to the אֱלֹהֵינוּ and אֱלֹהֵי אֲבוֹתֵינוּ, as in the Deuteronomy passages; in the other passages neither the Reed Sea nor the wilderness period are mentioned, and there is only a short reference to the bestowal of the land without anything being said about Balaam, Jericho and the Amorites; and, finally, a phrase characteristic of the Deuteronomy passages - אֲנִי וְעַמִּי יְהוָה - is not used here. The detail of Josh. 24 stands in stark contrast to Deut. 6 and 26, and, though it is hard to say if the author of Josh. 24: 2b-13 had the Pentateuch traditions before him,¹³⁰

¹³⁰ So Schmitt, op.cit., p.36

it is nevertheless clear that this historical recital in its present form is not such as could have been used in the earliest post-conquest period.¹³¹

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- 131 For one thing, the reference to Abraham in v.3. presupposes a time when the different patriarchal traditions had been fused and the patriarchs themselves arranged in the chronological order in which they are now to be found in the Pentateuch. On the original home of the Abraham stories and on the fusion of the different patriarchal traditions, cf. Noth, Überlieferungsgeschichte des Pentateuch, pp. 49, 58ff, 86, 89, 121f, 216ff; and also Alt, "The God of the Fathers", pp. 54f. As far as Josh. 24 is concerned, a possible original form of vv. 2-4 has been proposed by H. Seebass, Der Erzvater Israel, BZAW 98, 1966, p.10. According to the latter v.3bb cannot be the original continuation of v.3ba. V.4bb follows well on v.3ba. So vv. 3bb + 4aba (which belong together) are taken as an insertion. Also, in v.2, "Terah the father of Abraham and the father of Nahor" is taken as an addition, as is also the reference to Abraham in v.3aa. According to this reconstruction of vv. 2-4, the original would have read: "And Joshua said unto all the people, 'Your fathers dwelt of old beyond the river and they served other gods. And I took your father from beyond the river and led him through all the land of Canaan, and I multiplied his seed. And Jacob and his sons went down to Egypt'". However, while this is possible, the late naming of Jacob is awkward, and, furthermore, v.3bb is by no means an impossible continuation of v.3ba. It seems doubtful to me if literary criticism will ever succeed in getting back to the original form of the tradition at all points.

This is not to say, however, that vv. 2b-13 are too detailed to have been a cultic proclamation of the saving acts of Yahweh;¹³² but it does seem that it has been worked up into its present shape as literature rather than cultic recital. This is clear from the additions which we have been able to pick out. At any rate, vv.14f., which we shall see to contain very old elements, and which begin with

יהוה, do presuppose some sort of preceding historical review.¹³³

In v.14 there is the summons to serve Yahweh and to put away the gods (of the fathers?).¹³⁴ Lest any difficulty should arise because of v.3 where it is Yahweh himself who is said to have led Abraham, it is stressed in both v.14 and v.15 that these gods which are to be rejected were the ones worshipped by the fathers beyond the river, i.e. beyond the Euphrates.¹³⁵

132 So against Schmitt, op.cit., p.36

133 For examples of the use of the introductory יהוה after such a historical recital, cf. e.g., Gen. 24: 49; Ex. 19: 5; Nu. 14: 17; 22: 11; Deut. 4: 1; 10: 12; 26: 10; 1 Sam. 10: 19; 2 Sam. 7: 25.

134 Was this perhaps the original reading? In favour of it stands (a) the absence of the definite article before יהוה in MT (I cannot see that the translation proposed by Schmitt, op.cit., p.37: "Götter, wie ihnen eure Väter gedient haben", either gets rid of the difficulty, or is valid in the first place); and (b) the LXX rendering of the same phrase in v.15. If the reading was originally יהוה אלהינו it may have been changed on account of the frequent use of the phrase "God of your (or, our) fathers" for Yahweh, as, for example, in Ex. 3: 13, 15, 16.

135 יהוה אלהינו is probably an addition, cf. Noth, Joshua, p.135, and cf. v.15.

In v.15 the choice is set before the people between serving the gods worshipped in Mesopotamia, those of the Amorites, or Yahweh.

Two points may be mentioned in connection with vv. 14f: (a) the element of choice; and (b) the theme of the putting away of the foreign gods.

The verb בָּחַר is used rarely of the people making a choice is such a matter. In Deut. 30: 19 the people are invited by Moses to "choose life, that you and your descendants may live"; and in Prov. 1: 29 those who "did not choose the fear of the Lord" will find no answer from God. However, a clear parallel to Josh. 24: 15 is to be found in the Elijah narrative in 1 Kings 18: 21,¹³⁶ and that this idea of the choice of the people for a particular God is very old may be seen from Judg. 5: 8 - "new gods were chosen" - which, according to Pedersen,¹³⁷ is a "characteristic expression from the time of transition".

136 Schmitt, op.cit., p.39, rightly points out the differences which exist between the two. In the Elijah narrative it is a question of who is God, not of which God they will serve, as in Josh. 24, But the important element of the choice is present in both.

137 Pedersen, Israel III-IV, Copenhagen 1940, p.672, n.5. to p.2. However, for a very different translation of this phrase in Judg. 5: 8, cf. B. Margulis, "An Exegesis of Judges V 8a", VI 15, 1965, pp. 66ff.

Thus, many argue that this invitation to the people to choose their God would find its best context in the period immediately after the conquest when it was a question of accepting the indigenous deities of the newly won land, or of maintaining and re-interpreting the religion of Yahweh, the God from Sinai.¹³⁸

However, connected with this invitation to choose there is also the summons to put away the foreign gods.¹³⁹ This connection is present also elsewhere in the Old Testament, as, for example, in Judg. 10: 10-16,¹⁴⁰ and the motif of putting away the foreign gods is connected with Shechem also in Gen. 35: 2ff. This led Alt¹⁴¹ to see here

138 cf. Mendenhall, "The Hebrew Conquest of Palestine" BA 25, 1962, p.84.

139 Nielsen Shechem, pp. 103f, distinguishes between the "other gods" (אֱלֹהִים אֲחֵרִים), and the "foreign gods" (אֱלֹהֵי הַנֶּכֶר), arguing that the former is a deuteronomistic expression, while the latter, which is older, retains in the word נֶכֶר the idea of foreign in a political sense. However, the use of both terms in Judg. 10: 10ff, and the use of אֱלֹהֵי הַנֶּכֶר in 1 Sam. 7: 3 and אֱלֹהֵי in Ex. 20: 3, militates against this suggestion, and it is only with the presupposition of such a distinction that these usages can cause any difficulty.

140 The age of this unit, which is complete in itself, is difficult to determine. Rather than ascribe it to the deuteronomist, as Noth, Überlieferungsgeschichtliche Studien, p.53, it seems best, with Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch", Tradition und Situation, p.27, to understand that it did not originate as a literary text, but comes from preaching in the context of the covenant-breaking Yahweh community.

141 Alt, "Die Wallfahrt von Sichem nach Bethel" Kleine Schriften vol. I, pp.79-88. Alt found support for his theory in the LXX addition at the end of v.4:

וַיִּשְׁחִיתוּם עַרְיָה וְהָיָה

a ritual-aetiological legend of a rite of renunciation of foreign gods which originated at Shechem and was regularly practised there. The original nature of this ritual is obscure,¹⁴² but whatever its origin there is still everything to be said for it having been an ancient rite, associated

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- 142 Nielsen, "The Burial of the Foreign Gods", *StTh* 8, 1955, pp. 103ff, conjectures a Canaanite origin when the ritual involved the burying of images representing either the enemies of the Canaanites or their gods which were thus consigned to the world of the dead. This burial took place near the patriarchal grave (cf. Josh. 24: 32), and so the ancestor prevented the enemies from rising again. Thus, it was originally a magical rite, taken over by the Israelites, and Gen. 35:5 leads Nielsen to conjecture that here it was used by Jacob against the Canaanites. Schmitt, op. cit., p.49, is right in objecting that Gen. 35: 5, even if it is originally connected with what precedes, could just as easily be interpreted in the sense that after Jacob and his household renounced all foreign worship, God helped them. However, the theory which Schmitt himself, op.cit., p.51, following Gressmann, proposes, is no better founded than that of Nielsen. Schmitt suggests that the ritual had its origin in the custom of burying images, not those of enemies or of enemy gods, but as guards for protection against the enemy. This was later felt to be offensive, and so the custom received a re-interpretation. All attempts to discover the origin of the rite are necessarily tentative because of the lack of information, but it may well be that it had its origin on the occasion when those who experienced Yahweh's action in the exodus introduced the worship of Yahweh to those settled in the land. This act of renunciation of the foreign gods then became a regular rite, repeated at every covenant festival, and when it was forgotten that only a part of Israel's ancestors had experienced the exodus the rite was derived from an action of Jacob in order to account for and to justify its practice.

with Shechem, taken over into the Israelite religion, and used in a symbolic gesture of renunciation of pagan cults and obedience to Yahweh.¹⁴³

In vv. 16-18 the following additions are immediately apparent: v.17 וַיִּבְרָא־יְהוָה , which is omitted in Syriac;¹⁴⁴ וַיִּבְרָא־יְהוָה with its strong deuteronomistic phraseology¹⁴⁵ is omitted in LXX. If the "great signs" refer to the Egyptian plagues this reference comes too late after v.17a, which supports the view that the section is secondary.¹⁴⁶

143 cf. Weiser, The Psalms (Old Testament Library), London 1962, pp. 33, 61; Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, p.40; and also Alt, "Die Wallfahrt von Sichem nach Bethel", pp. 84f, who calls it "the so-to-speak negative first part of an activity which then in the second part found its positive climax in the promise by the whole people to worship Yahweh alone". It seems to me that Schmitt's question, op.cit., p.50: "were the Israelites such stiff-necked idolators that new images were manufactured by them from feast to feast and then at the next pilgrimage in Shechem were again handed over and buried? That is hard to believe" (cf. also ibid., p.42), reveals a misunderstanding of the nature and purpose of such a ritual.

144 cf. Schmitt, op.cit., p.9; Rudolph, op.cit., p.247; Noth, Josua, pp. 137, 140.

145 cf. Noth, Josua, p.136; Nielsen, Shechem, p.99

146 cf. Rudolph, op.cit., p.247; Schmitt, op.cit., p.9.

In v.18 the words יְהוָה יֶחֱזַק לָנוּ have different positions in MT, LXX, and Syriac, which argues against their authenticity. They may have been derived from v.17b¹⁴⁷.

After the removal of these additions it is hardly necessary to go on and judge what remains as a late post-deuteronomistic composition,¹⁴⁸ largely on the basis of the infrequency of the phrase יְהוָה יֶחֱזַק לָנוּ.¹⁴⁹ This greatly abbreviated repetition of what Joshua has said is quite in place here as an acknowledgement by the people of what Yahweh has done for them, just before their explicit promise to worship Yahweh alone.¹⁵⁰

In vv. 19-24 Joshua goes on to tell the people that they cannot serve Yahweh since he is a holy and jealous God. When¹⁵¹ they sin against him he will turn and destroy them after having done good to them.

147 cf. Nielsen, *Shechem*, p.99; Noth, *Josua*, p.140.

148 As does L'Hour, op.cit., p.27. Nielsen, *Shechem*, p.106, argues that there may be pre-deuteronomistic material only in v.18b.

149 On the phrase יְהוָה יֶחֱזַק לָנוּ, cf. above n.97

150 Indeed this answer of the people is a 'credo' in the strict sense, rather than vv. 2b-13, cf. Baltzer, op.cit., p.32 n.5.

151 On the translation of יָדָה in v.20a, cf. Schmitt, op.cit., p.12 n.13, against Rudolph, op.cit., p.248 n.1.

But the people reaffirm their will to serve Yahweh, whereupon Joshua takes them as witnesses to what they have said. Then there is a renewed command to put away the foreign gods and serve Yahweh, followed by a renewed agreement of the people.

v.22b וְתָוּ יִשְׂרָאֵל is commonly rejected as an addition, on the grounds that it is missing in LXX, and it interrupts the speech of Joshua which continues in v.23 without any prefatory introduction.¹⁵² However, since there is more reason for someone having omitted the words¹⁵³ than having added them, it is preferable to understand that v.22b belongs in its present context.¹⁵⁴

However, many problems remain and there are strong arguments against taking the section as a whole, vv. 19-24, as an original continuation of what precedes. First, the statement "you cannot serve Yahweh" is strange coming after vv. 14ff.¹⁵⁵

152 cf. Rudolph, op.cit., p.247; Noth, Josua, p.135

153 LXX may have wished to avoid giving the impression that the following v.23 was a continuation of the speech of the people.

154 cf. also Nielsen, Shechem, p. 100.

155 Baltzer, op.cit., p.34 n.4, argues that a later editor struck out the words "and (at the same time) the foreign gods" after "you cannot serve Yahweh". But if these words were originally part of the verse it is hard to explain why they should have been later omitted, since such a warning would accord well with the general temper of the chapter.

Secondly, there is a great deal of repetition of phrases and ideas already used here and in other places.¹⁵⁶

Thirdly, the idea of the people being witnesses against themselves is at variance with v.27 where the stone is witness, of which the latter is definitely an ancient conception.¹⁵⁷ And, fourthly, the terminology used in this section is late.¹⁵⁸

- 156 עַבְדֵי יְהוָה אֵלֶיךָ cf. v.16; עַבְדֵי יְהוָה - the use of עַבְדֵי (ה) in vv. 20, 23, instead of עַבְדֵי as in vv. 2, 16, may have resulted under the influence of Gen. 35: 2, of which v.23 is here almost a verbal repetition. Also, the chronological sequence of the periods of good and evil in v.20b (this sequence is still there even if we adopt the LXX reading $\alpha\upsilon\tau\omicron\iota \hat{\omega}\nu = \gamma\psi\alpha \eta\eta\eta$ instead of $\gamma\psi\alpha \eta\eta\eta$) is very reminiscent of Deut. 28: 63 (cf. also Deut. 28: 21). McCarthy, Treaty and Covenant, p. 147 n.11 thinks that this peculiarity can be dated 'between the redaction of the first framework for the Dt. Code which still has the future possibilities (Dt. 6: 10ff; 8: 19-20; 11: 13ff; 28: 1-44) and the secondary frame which has the real sequence (Dt. 4: 25ff; 30: 1)". On the reason for, and the process of historicizing, the blessing and curse, cf. Baltzer, *op.cit.*, pp. 99f.
- 157 For parallels in prophetic literature to the idea of the people as witnesses, and also to the declaration "you cannot serve Yahweh", cf. McCarthy, Treaty and Covenant, pp. 149f.
- 158 The word $\alpha\iota\psi\alpha$ in v.19 occurs in this form otherwise only in the late Nah. 1:2. On the deuteronomistic expressions: "incline the heart" (v.23); and $\gamma\psi\alpha \eta\eta\eta$ (v.24), cf. Noth, Josua, p.136; L'Hour, *op.cit.*, p.28; Nielsen, Shechem, p.108. Schmitt, *op.cit.*, pp. 21f, has rightly warned against too much reliance on what can be gained from concordance studies, especially where words and phrases such as "incline the heart" only occur very seldom; but the terminology, taken

Note 158 continued

together with the other points which we have noted, is surely enough to establish the late secondary nature of this section.

So we are brought to the conclusion that these verses, revealing deuteronomistic phraseology, are a late addition to Josh. 24. Rather than being specifically a vaticinium ex eventu,¹⁵⁹ they seem to be a product of general experience and religious reflection.¹⁶⁰

The final section, vv. 25-28, of the description of the covenant making ceremony tells, in remarkably few words compared with what precedes, of the making of a covenant, the giving of "statutes and ordinances", the writing in a book, and the setting up of a stone, as witness, under the oak in the sanctuary of Yahweh. The difficulties of this passage concern mainly vv. 26a, 27a, 27b. To what do

הָאֵלֹהִים וְהַדָּבָר וְהַיָּהוָה and הָאֵלֹהִים יְהוָה refer?

The three verses, vv. 25-27, use terminology which is both late and rare: חֹק וּמִשְׁפָּט;¹⁶¹ סֵפֶר תּוֹרַת אֱלֹהִים;¹⁶² and כָּחַשׁ בְּאֵזְרֵיהֶם.

159 So Rudolph, op.cit., p.248, who thus thinks that they (i.e., for Rudolph, vv. 19f + 21) presuppose at least the fall of the southern kingdom; however, cf. Schmitt, op.cit., p.12

160 cf. the cautious remarks of Hertzberg, op.cit., p.138

161 This combination is mostly post-exilic; cf. L'Hour op.cit., p.30 (though for a different opinion, cf. Schmitt, op.cit., p.21 n.37). On the question of the relationship between v.25b and Ex.15: 25b, cf. Nielsen, Shechem, pp. 108ff.

162 Nielsen, Shechem, p.78, points out the deuteronomistic character of the phrase סֵפֶר הַתּוֹרָה, but with אֱלֹהִים or יְהוָה the phrase is only met with in Nehemiah and Chronicles.

However, in spite of this there are here, unlike vv. 19-24, some very early traits, such as the writing of "all these words", and the stone as a witness,¹⁶³ though the original import of these may have been altered through redaction. While it seems hardly likely that the stone was at one time interpreted as being a kudurru, or boundary stone, marking the border between Ephraim and Manasseh,¹⁶⁴ there is, on the other hand, a fair measure of probability that the stone, as well as being a witness, was also an inscribed stele. It was, in that case, the stone on which Joshua wrote the covenant statutes.¹⁶⁵ But whether or not the words were inscribed on the stone, to what do $\text{ןִזְכָּר} \text{דְּכָרָתָן}$ and $\text{ןִזְכָּר} \text{ןִזְכָּרָתָן}$ refer? It is clear that they do not refer to vv. 2-13 which is a historical review requiring no witness.

163 That vv. 27a and 27b are variants, as held by Noth, Josua, p.137 (cf. also Rudolph, op.cit., p.248), may be debated. It is possible that the two half-verses belong together, and that the change of person was due to the desire to avoid giving the impression that Joshua himself could possibly deal falsely with God.

164 So Nielsen, Shechem, p.126

165 cf. L'Hour, op.cit., p.32; K.Koch, Was ist Formgeschichte, Neukirchen 1964, p.33; Baltzer, op.cit., p.36. Thus, the Targum may in fact have the right idea: "this stone is to us like the two stone tablets of the covenant.....for the words which are inscribed on it are like all the words of Yahweh which he has spoken with us" (quoted in Schmitt, op.cit., p.9; cf. The Bible in Aramaic (edit. A.Sperber) vol.II, Leiden, 1959, p.44). That such a written record could also be a witness is shown by Deut. 31: 26b; cf. Beyerlin, Origins and History of the Oldest

Note 165 continued

Sinaitic Traditions, pp. 44, 60. However, Beyerlin (ibid., p.61) thinks that the stone was thought of in popular piety as Yahweh's dwelling place, and (ibid., p.43) that v.26a is "the aetiological explanation of a corresponding document in Shechem".

Rather, the reference must be to some body of law regarded as the words of Yahweh, in this case the covenant law.

According to Schmitt,¹⁶⁶ vv. 1, 25-27 are an older layer of Josh. 24.¹⁶⁷ The 'covenant statute' (Bundessatzung) presupposed in v.27a cannot be the וְהָיָה הַיְּהוָה of v.25b, since the latter represents Joshua as the lawgiver. Rather, this covenant statute was probably a cultic decalogue like Ex.34 and the parallel commands of the Book of the Covenant. This was later considered as a part of the Sinai revelation and so was placed within the Sinai pericope. But v.25b is also an old element. But this 'statute and ordinance' was proclaimed after the covenant was concluded and was probably not in the form of divine speech,¹⁶⁸ and not considered as an immediate divine

166 Schmitt, op.cit., pp. 13f, 24, 76, 83f, 101

167 This is very similar to the view of Gressmann, for which cf. Nielsen, Shechem, p.109.

168 That וְהָיָה הַיְּהוָה implies two different kinds of law cannot be said with certainty. For opposing views, cf. Schmitt, op.cit., p.76 n.49, and W.J. Harrelson, "Law in the O.T.", IDB vol. 3, p.83; cf. also Jepsen, Untersuchungen zum Bundesbuch, BWANT III 5, Stuttgart 1927, pp. 103f; Alt, "The Origins of Israelite Law", pp. 123f n.106. The use in 1 Sam. 30: 25 would seem to indicate that it was used as an idiomatic expression meaning something like "rule of law" (this is the translation given by J. Weingreen, "The Case of the Daughters of Zelophchad", VT 16, 1966, p.522), making no distinction between different forms of law, though this, of course, says nothing for the original significance of the phrase. See further, B. Lindars, "Torah in Deuteronomy", Words and Meanings, pp. 126f.

revelation. But, Schmitt, argues, it is apparent from Josh. 24 and from the fact that Deuteronomy contains casuistic laws which are clearly stamped by the preaching proclamation of law,¹⁶⁹ that both the covenant statute and the $\text{וְהַשְׁמִיעָהּ בְּיָדָם}$ were proclaimed in the cultic community. But if this is the case, then the only objection to an identification of the Bundessatzung and the Rechtsordnung in Josh. 24 is the fact that the latter comes from Joshua himself, whereas the former is clearly designated as $\text{וְהַשְׁמִיעָהּ בְּיָדָם}$ (v.27a).

However, there are two points which may be made here. First, throughout this chapter Joshua is acting as the representative of Yahweh and in his name, just as in vv. 2ff he speaks in the name of Yahweh;¹⁷⁰ and it is noticeable that it is just at the very point where direct reference is made to the "words of Yahweh" that Joshua includes himself among the people (וְיָשׁוּעַ v.27). But who in fact could have spoken these words except Joshua himself in his representative capacity? Secondly, we have already seen¹⁷¹ that covenants established between humans could be called covenants of Yahweh. This persuades us that the $\text{וְהַשְׁמִיעָהּ בְּיָדָם}$ of v.27 does in fact refer back to the $\text{וְהַשְׁמִיעָהּ בְּיָדָם}$ of v.25 which Joshua, as the representative of Yahweh and the mediator between him and the people,

169 Schmitt, op.cit., p.84

170 This is also stressed by Schmitt, op.cit., p.69

171 cf. above n.62

gave to the people as the specific conditions upon the observance of which the preservation of the covenant relation depended. A simple Rechtsordnung, having nothing to do with the covenant relationship between Yahweh and the people, is totally out of place in v.25.

The criticism of this chapter shows that in all parts of vv. 1-28 the whole has been subject to redaction and editing. However, there are definite ancient elements in the account, not only in vv. 1, 25-28, but also in vv. 2-24.¹⁷² Such ancient elements would be: the proclamation of the saving acts of Yahweh, the putting away of the foreign gods, the choice set before the people, the acceptance of Yahweh by the people, the making of the covenant, the writing (on the stone?) of the covenant statutes, and the stone as witness to the covenant.

172 So we cannot agree with Schmitt's division of vv. 1-28 into an old layer, vv. 1, 25-28, and a later one, vv. 2-24 (cf. above n.166). In its present form vv. 1-28 are from the same mould, and, while some sections may have lent themselves to expansion and development more easily than others, the relative ages of their original contents is not thereby established, cf. Nielsen, Shechem, p.109: "the kerygmata may often be more ancient than the historical frames in which they have been inserted" (cf. also *ibid.*, pp. 92ff). On vv. 26-28 as standing outside the literary structure formed by vv. 1-25, but yet belonging to the same tradition, cf. Muilenburg, "The Form and Structure of the Covenantal Formulations", VT 9, 1959, pp. 357f.

It has also been seen above that parts of Josh. 24 show signs of deuteronomistic influence; but this poses a further problem. Josh. 23 constitutes the deuteronomistic conclusion of the conquest history, and this chapter clearly finds its continuation in Judg. 2: 6ff.¹⁷³ This suggests that Josh. 24 is a separate tradition which has been introduced in a secondary deuteronomistic redaction, and that vv. 29-31 were added later as conclusion.¹⁷⁴ At any rate, the tradition of the 'parliament' of Shechem is quite unsuitable as the final act of Joshua. V.15 certainly does not envisage his imminent death.¹⁷⁵ If this is correct, then the question of the historical significance of Josh. 24 arises.

173 cf. Noth, Überlieferungsgeschichtliche Studien, p. 9; L'Hour, op.cit., pp. 18f.

174 On the problem of the relation between Josh. 24: 29-31 and Judg. 2: 6ff, cf. Nielsen, Shechem, pp. 134ff.

175 The question of whether Josh. 24 is to be connected to a Pentateuchal source cannot be answered with certainty. However, if it is correct that the chapter constitutes a separate tradition which came to its present position at a late stage, the theory that an E (or J, as Rudolph) source is to be found here is rather unlikely. The same applies also to a possible connection of the chapter with Josh. 1-12, and the view that there is in fact no connection with the latter is strengthened by the different representations of the Jericho incident in Josh. 24: 11 and Josh. 6.

Josh. 24 purports to be the record of a historical act at which the Israelite tribes accepted the Yahweh religion at the challenge of Joshua. However, this raises the difficulty that according to the tradition of Ex. 19 and Ex. 24 the people of Israel had long before at Sinai become worshippers of Yahweh. How is it that it is only now that they are asked to put away the foreign gods and serve Yahweh, and how is it that it is only now that they receive the statute and ordinance which, according to the tradition, they had long ago received at Sinai? This puzzle sometimes led to the historicity of the Sinai covenant being denied altogether in favour of the Shechem covenant.¹⁷⁶ However, after Sellin¹⁷⁷ proposed that things which are predicated of all Israel in Josh. 24 really only concerned a part of the tribes, and that in fact it was only Joshua and his 'house', i.e. the Rachel tribes, who had experienced Egypt and the Exodus, and were now introducing Yahwism to the tribes already long settled in the land, this theory was widely accepted as the solution to the problem.¹⁷⁸

176 So M.J. Bin Gorion, Sinai und Garizim, 1926, pp. 405f; A. Menes, Die vor-exilischen Gesetze Israels, BZAW 50, 1928, pp. 24, 42.

177 E. Sellin, Geschichte des israelitisch-jüdischen Volkes vol. 1, 1924, pp. 98ff.

178 cf. e.g., L'Hour, op.cit., p.26. Noth, Das System, pp. 65ff, also accepted this view at first but later modified it since it seemed to be a too simple solution of the problems of the Israelite conquest to take it that it was the Rachel tribes which, under Joshua, introduced Yahwism to the Leah tribes already settled in the land; cf. idem, Überlieferungsgeschichte des

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Pentateuch, p.53, where it is argued that those who experienced Egypt and the exodus were later incorporated into a number of tribes and tribal groups, rather than just one tribe. Similarly, Noth would deny the possibility of determining precisely what group experienced the event at Sinai.

An allusion to this event at Shechem was found by Sellin in the framework to the Song of Moses.¹⁷⁹

Schmitt¹⁸⁰ has objected to Sellin's hypothesis on a number of grounds. According to the former, there is nothing said in Josh. 24 of a union of different tribal groups; and, indeed, from Sellin's point of view, the choice offered by Joshua in vv. 14f is unintelligible, for Joshua was, ex hypothesi, no leader of the people whom he was addressing who had long ago entered the land and so must have already had behind them the decision on which gods they were to worship. Josh. 24, the Yahweh covenant, does not found the unity of the people, it presupposes it.¹⁸¹ So, from the point of view of the author of v. 15, those addressed by Joshua were confronted by a new situation in which they must now decide on whom they shall worship. This new situation was settlement in the land which had recently been conquered. Those addressed by Joshua are those who had just entered the land, a group already united¹⁸² through a series of alliances among the individual tribes. In this case Josh. 24 would represent the conclusion of the whole process, perhaps bringing about the formal constitution of the tribal federation, and the organization of its cult.¹⁸³

179 Deut. 33: 2-5, 26-29; cf. also Schmitt, op.cit., p.62

180 Schmitt, op.cit., pp. 34ff, 40ff, 45, 48, 90f, 92ff.

181 cf. also Noth, Das System, pp. 54f, who points out that the care of a common sanctuary was not the driving force in an alliance of the tribes, but rather presupposes such an alliance.

182 Already before the conquest? cf. *ibid.*, p.93

183 cf. also Kraus, Worship in Israel, p.137, who speaks of Josh. 24 as "the 'foundation charter' of the ancient Israelite Yahweh amphictyony".

But does the demand by Joshua to do away with the foreign gods imply that Yahweh had not been the God of this people before this, i.e. that the Sinai event has no historical significance? No, Schmitt argues, for Josh. 24: 18b: "also we will serve Yahweh, for he is our God", shows that although Yahweh had not been served by Israel up until this time (i.e., there had been no cultic worship of him), he had still been their God, which, according to Schmitt, was evidently also the opinion of Amos (5: 25).¹⁸⁴ It is now, after Yahweh has done all these things on Israel's behalf, that Israel must decide on his future worship.

We find Schmitt's point of view largely acceptable. There is indeed nothing in Josh. 24 to suggest that this covenant conclusion really involved the fusion of two different tribal groups, when the Yahweh faith of the one was accepted by the other. Indeed the reply of the people (v.16): "far be it from us to forsake Yahweh to serve other gods", implies that the people addressed here were already Yahweh worshippers. This is not just a case of the adoption of a common historical experience by all, which was in reality the experience of only a part, which could be said for vv. 17f. Rather, this covenant celebration already presupposes the unity of those addressed in the worship of Yahweh. But what, then is the meaning of the choice laid before the

184 I cannot follow what Schmitt really thinks of v.15. In one place (op.cit., p.42) he states that there can be no real tradition behind this verse, since he can conceive of no historical or cultic situation in which such a choice could have been set before the people; but elsewhere (ibid., pp. 36, 38 and cf. also his treatment of vpl8 on pp.40f), this seems no longer to be the case.

people by Joshua? It is unnecessary to imagine (as Schmitt) that the people were now confronted by a new situation, that of settlement in their recently acquired territory. We have already pointed out¹⁸⁵ the parallel in the Elijah narrative, and accepted the theory that the putting away of the foreign gods, with which the choice of the people is here and elsewhere connected, was a rite practised at Shechem.¹⁸⁶ This rite, and the choice set before the people, were both symbolical gestures of the rejection of foreign worship and the acceptance of the Yahweh faith. There is no real objection to these having had a place within the cultic worship of Israel.¹⁸⁷

But as well as reflecting a covenant ceremony practised at Shechem,¹⁸⁸ Josh. 24 undoubtedly also preserves the memory of a historical event at Shechem.

185 cf. above p. 185

186 This does not, of course, imply acceptance of Alt's view that there was at the same time a pilgrimage from Shechem to Bethel. The connection between the two is probably secondary. The putting away of the foreign gods is not included in God's command to Jacob in Gen. 35: 1; cf. Schmitt, *op.cit.*, p.51.

187 An additional support for this is the use of דִּי'ן in v.15, for which cf. Nielsen, Shechem, p.106. On Josh. 24: 18, 24 as containing a vow of the people which may have had a place in Israelite cultic worship, cf. Westermann, The Praise of God in the Psalms, p.60.

188 cf. Newman, The People of the Covenant, p.112 and the literature cited there.

It cannot of course be proved that the place of Joshua himself in this chapter is historically accurate. However, there is nothing to show that it was simply in order to legitimate a Shechemite cultic ceremony that Joshua was made to occupy the place he now has in Josh. 24.¹⁸⁹ The sanctuary itself was situated to the east of the city of Shechem,¹⁹⁰ and the peaceful co-existence of the Israelites and the probably autonomous Shechem, at least until the time of Abimelech,¹⁹¹ would have facilitated the establishment and practice of Yahweh worship in the neighbourhood of the city. So we can only conclude that Josh. 24 does, on the whole, give a true representation of the covenant relationship in which Israel stood with Yahweh in the earliest pre-monarchy period.

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- 189 Rowley, From Joseph to Joshua, pp. 127f, points to the "curious duplication" in events at Shechem which are attributed to both Jacob and Joshua, and he suggests that Josh. 24 "represents the transfer to Joshua of an older tradition of a covenant between Israelites and Canaanites, but in an appropriately altered form". However, the fundamental differences between Gen. 34 and Josh. 24 make it very improbable that the one is simply a changed form of the other; cf. also Seebass, *op.cit.*, pp. 93f n.36.
- 190 cf. Nielsen, Shechem, p.125 n.2 (and *ibid.*, p.34 n.4), though cf. also Noth, Das System, p.94.
- 191 cf. Schmitt, *op.cit.*, p.84; Alt, "Josua", Kleine Schriften vol.1, p. 191. But cf. Kaufmann, The Religion of Israel, p.250 n.6, who argues that Shechem had also been taken over by Israel during the conquest. According to the latter, the contrast between the citizens of Shechem and the "men of Israel" in Judg. 8-9 means no more than the contrast between the Benjaminites and the men of Israel in Judg. 20-21.

(iv) The Form of the Covenant expressed in Josh. 24

The examination of Josh. 24 cannot end with literary and historical criticism. It has been seen that this chapter presupposes a historical event of covenant making at Shechem and also a regular ceremony of covenant renewal at this sanctuary; and something has been said of the various practices connected with this ceremony. What must now be discussed is the overall form of this covenant in so far as this can be reconstructed from Josh. 24.

In 1954 an article was published by Mendenhall,¹⁹² in which it was maintained that the form in which the covenant relationship between Yahweh and Israel was expressed clearly followed the pattern of Ancient Near Eastern Treaties of the second millenium which have their best illustration in texts discovered at Boghazköy. These treaties, coming from the Hittite Empire of the Late Bronze Age (c. 1400 - 1200 B.C.) are of two kinds: 'parity treaties', in which the two parties are equals; and 'suzerainty treaties', in which the Hittite kings, as the superior party, imposes obligations on the inferior. It is the latter type with which has been compared the form of the

192 Mendenhall, "Covenant Forms in Israelite Tradition", BA 17, 1954, pp. 50-76; see also the independent investigation by Baltzer, op.cit., Both these scholars made full use of the basic examination of the treaty form carried out by V. Korošec, Hethitische Staatsverträge, Leipziger Rechtswissenschaftliche Studien 60, Leipzig 1931.

covenant between Yahweh and Israel.¹⁹³ Certainly the possibility of drawing such comparisons cannot be ruled out a priori. Israel also made use of treaties,¹⁹⁴ though their form is no longer preserved, and in many other spheres of life and literature contact has been established between Israel and her contemporary environment.

193 The formal differences between the two types are, however, of only a minor nature, cf. Korošec, op. cit., pp. 14f, and further, below n. 197.

194 For a probable parity treaty, cf. that between Solomon and Hiram, 1 Kings 5: 26; and for a suzerainty treaty, that between Ahab and Benhadad, 1 Kings 20: 34 (the interpretation of the latter is disputed. Jepsen, "Berith, Ein Beitrag zur Theologie der Exilszeit", pp. 164f, in accordance with his view of בְּרִית as 'promise', argues that בְּרִית should be inserted before בְּרִית , so referring to Ahab, while the בְּרִית refers to Benhadad since "er (i.e. Ahab) braucht dem Aramäer keine Zusicherung zu geben". But this involves a too frequent and sudden change of subjects. This difficulty is resolved by understanding that בְּרִית has been changed from an original בְּרִית under the influence of the preceding בְּרִית which really anticipates the suffix. This yields the translation: "but as for me, you shall let me go by covenant. So he (i.e. Ahab) made a covenant with him and let him go". A military alliance by treaty against a common enemy is exemplified in 1 Kings 15: 16-20.

Brief reference has already been made¹⁹⁵ to investigations of the prophetic use of traditional curses, but these are not the only contacts with the treaty literature of the Ancient Near East. There are common ideas and common terminology¹⁹⁶ which, though scarcely establishing direct

195 cf. above n.24, to which add: McCarthy, Treaty and Covenant, pp. 122f, who, in connection with Deut. 28, concludes that this chapter "reflects the ancient 'canonical' curses of Mesopotamia with, of course, significant differences". On the other hand, R. Frankena, "The Vassal-Treaties of Esarhaddon and the Dating of Deuteronomy", Oudtestamentische Studiën XIV, 1965, pp. 122-154, argues that the compiler of Deut. 28: 20-57 used "a curse text similar to the first curse section of the vassal treaties" (ibid., p.146), which he elaborated (ibid., pp. 149f). However the latter does not take sufficient account of the differences which exist between Deut. 28 and the curse section of the Esarhaddon Treaties.

196 cf. Fensham, "Clauses of Protection in the Hittite Vassal-Treaties and the Old Testament", VT 13, 1963, pp. 139f, for the suggestion that the 'incomparability of Yahweh' may have arisen from the idea of obedience to the chief covenant partner; and (ibid., pp. 140ff) for parallels to Yahweh's protection of Israel against enemies. Further, for treaty parallels to the Hebrew יָדָא as used in Old Testament covenant contexts, cf. Huffmon, "The Treaty Background of Hebrew YĀDA", BASOR 181, 1966, pp. 31-37. For the relationship of the deuteronomic concept of love of God with the ancient treaty ideology and terminology cf. W.L. Moran, "The Ancient Near Eastern Background of the Love of God in Deuteronomy", CBQ 25, 1963, pp. 77-87. For further general parallels in terminology, cf. J.A. Thompson, The Ancient Near Eastern Treaties and the Old Testament, pp. 35ff, who argues for the peculiarly Israelite use of terms like יְדָבָר and יָדָבָר: cf. also Schmitt, op.cit., p.31 n.57, for references to Hittite treaties using the expression "with the whole heart": and, ibid., p.32 n.58, for a treaty parallel to the expression יְדָבָר יְדָבָר.....יְדָבָר יְדָבָר, which is found, for example, in Deut. 6:3.

historical connections, clearly show that Israelite literature, in all stages of its origin and writing, cannot be treated in isolation without reference to the Ancient Near Eastern contemporary world. So, at any rate, there are at least the right conditions for the use by Israel of the Hittite vassal treaty form,¹⁹⁷ which may have its roots in Mesopotamian legal procedure.¹⁹⁸ Conditions would be all the more favourable if, as seems likely, this treaty form was an international one.¹⁹⁹

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- 197 It is the vassal, or suzerainty, treaty form with which we shall be concerned here, though it seems that the forms of the vassal and the parity treaties were the same, cf. McCarthy, Treaty and Covenant, pp. 27, 41; and *ibid.*, pp. 23f for the one extant example of a parity treaty, that between Hattusilis III and Rameses II (for which cf. also Korošec, *op. cit.*, pp. 14f; G.J. Botterweck, "Der sog. hattische Bericht über die Schlacht bei Qadeš", F. Nötscher Festschrift, Bonn 1950, pp. 26-32). Mendenhall, "Covenant Forms in Israelite Tradition", p.55, holds that the vassal treaty is the basic form, and that the parity treaty is really a combination of two vassal treaties - each partner binds the other to the same obligations.
- 198 This is not to say that the actual form of the vassal treaty is Mesopotamian in origin, as argued by Mendenhall, "Covenant Forms", p.54 (cf. also Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p.41); cf. McCarthy, Treaty and Covenant, p.19, and Schmitt, *op.cit.*, p.87 n.15.
- 199 cf. Mendenhall, "Covenant Forms", p.54. When we speak of the Hittite vassal treaty form, it should be understood only that this form is so far known to us, perhaps through the accident of archaeology, only from Hittite records. This is not to say that it was used only within the confines of the Hittite empire. The parity treaty mentioned above (n.197) shows that at least Egypt regarded this as a valid treaty form.

Note 199 continued

This makes it probable that it was indeed an international treaty form in this period; cf. Hillers, Treaty Curses and the Old Testament Prophets, p.80; Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p.51; H.B. Huffmon, "The Exodus, Sinai and the Credo", CBO 27, 1965, p.104; Mendenhall, "Covenant Forms", pp. 53f.

The purpose of such vassal treaties was, by means of stipulations to which the vassal swore his obedience, to regulate the behaviour of the vassal towards both his suzerain and his fellow-vassals, and so to promote the stability of the Hittite Empire.

All the Hittite vassal treaties of which the beginning is preserved start with "Umma....." - thus (says)....., and this is followed by the name of the suzerain giving the treaty, together with his titles and his appellations.²⁰⁰ After this 'titulature' comes the 'historical prologue' in which the suzerain narrates the previous kind and beneficial actions which he has undertaken in favour of the

200 Some of the treaties also have: "the beloved of the god...."; cf. the references in Baltzer, *op.cit.*, p.21 n.3.

vassal.²⁰¹ This section is not stereotyped, but gives many concrete and valuable historical details.

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- 201 That the historical prologue was an indispensable part of the Hittite treaty form is strongly debated. McCarthy, Treaty and Covenant, pp. 26, 30f, 44f, 99, contends that there are five treaties where this section is missing. In one of these, however, that between Mursilis II and Niqmepa of Ugarit (cf. McCarthy, Treaty and Covenant, pp. 30 and 181f for the text), there is a short historical prologue: "as for thee, Niqmepa, (I brought thee back to thy country) and made thee sit as king on the throne of thy father", which, though brief, gives a frequent element of the historical prologue, cf. Baltzer, op. cit., p.21; and, for an example, cf. Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p. 53 n.144. Another of the five treaties which McCarthy, Treaty and Covenant, p.31, cites, is that between Mursilis II (for this rather than Arnuwandas II as McCarthy, cf. Huffmon, "The Exodus, Sinai and the Credo", p.109 n.41) and Piyassilas of Carchemish. The treaty is fragmentary but, since there is no gap between the titulature and the stipulations McCarthy argues that the treaty contained no historical prologue, because the latter never comes anywhere but between the titulature and the stipulations. However, Huffmon, loc.cit., quotes the treaty between Suppiluliumas and Aziru, where the historical prologue follows the stipulations, in support of his view that the Mursilis II/Piyassilas treaty cannot be used to show that the historical prologue was dispensable (this is now admitted also by McCarthy, "Covenant in the Old Testament", p. 227 n.23). This also affects the early treaty between Zidantas and Pilliya (cf. McCarthy, Treaty and Covenant, pp. 26, 31) which may likewise have had a historical section in one of its missing parts (so now McCarthy, "Covenant in the Old Testament", pp. 227 n.23, against Huffmon, op.cit., p.109 n.41. The latter argues that this is a parity treaty for which the historical prologue was less important (cf. the parity treaty between Hattusilis III and Rameses II, and McCarthy,

Note 201 continued

Treaty and Covenant, p.24; L'Hour, op.cit., p.9), and that it is also one of the earliest (15th cent. B.C.) of the well preserved Hittite treaties, thus perhaps representing a terminus post quem for the 'normal' treaty form - so following Moran, "Review of Baltzer, Das Bundesformular", Bib. 43, 1962, p.104). Of the other two treaties which McCarthy, Treaty and Covenant, cites, the one, i.e. that between Suppiluliumas I and Hugganas, again has a short historical prologue which, in spite of McCarthy, "Covenant in the Old Testament", p.227 n.23, does deal with the personal relations between the vassal and his overlord, cf. Huffmon, loc.cit.; Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p.52; and the other, i.e. that between Tudhaliyas IV and Ulmi-Tessub (cf. text in McCarthy, Treaty and Covenant, p.183), does not permit certain conclusion since it has an initial lacuna of three lines (which, however, according to McCarthy, "Covenant in the Old Testament", p.227 n.23, is not room enough for a 'normal' historical prologue). As for the treaty between Suppiluliumas and Aziru mentioned above, where the history follows the stipulations, McCarthy, "Covenant in the Old Testament", p.227 n.23, argues that it still leaves the major point open, viz. that "a historical relationship is no indispensable basis for the relationship it set up"; but it seems doubtful that this can be concluded simply on the basis of the position of the historical section, either before or after the stipulations. However, whatever view we follow, it still remains indisputable that the historical prologue is characteristic of the Hittite treaties.

The purpose of this historical section, which is strikingly expressed in the 'I-thou' personal form of address, is always to arouse the gratitude of the vassal and to move him to obedience to the treaty stipulations.²⁰² The third section of the treaty consists of the stipulations, the conditions on the observance of which depended the preservation of the treaty relationship. That is not to say that the observance of these stipulations constitutes the actual treaty relationship; rather, the stipulations presuppose the existence of the treaty relationship, and are a definition of the way in which the faithful vassal should act.²⁰³ These stipulations cover a great variety of subjects:²⁰⁴ prohibition of independent foreign policies,

202 cf. Korosec, op.cit., pp. 12f; Beyerlin, Origins and History of the Oldest Sinaitic Traditions, pp. 52f; McCarthy, Treaty and Covenant, pp. 29f; Mendenhall, "Covenant Forms", pp. 58f. Sometimes a description of the boundaries of the vassal's land is included in the historical section, cf. Baltzer, op.cit., p.22, though this 'Grenzbeschreibung' is found also in other parts of the treaty text, cf. McCarthy, Treaty and Covenant, p.58 n.23.

203 cf. Baltzer, op.cit., p.22; McCarthy, "Covenant in the Old Testament", p.233; Gerstenberger, Wesen und Herkunft des 'apodiktischen Rechts', p.100; Huffmon, op.cit., p.108.

204 Baltzer, op.cit., pp.20, 22f, argues for a separate section consisting of a general statement on the future relations of the treaty partners (this he calls the 'Grundsatzklärung'); cf. also the division of the Mursilis/Duppi-Tessub treaty adopted by A. Goetze, Ancient Near Eastern Texts, pp. 203f. This Grundsatzklärung does occur at the beginning of the stipulations in a few treaties; but it can scarcely be taken as a definite section since it is often

Note 204 continued

omitted, or, when included, it is sometimes to be found in the middle of the 'Einzelbestimmungen'. So it seems best to take it along with the rest of the stipulations in one section, cf. McCarthy, Treaty and Covenant, p.32

prohibition of war with fellow-vassals; prohibition of harbouring refugees (this prohibition in particular is treated in detail);²⁰⁵ military aid must be sent when requested by the overlord; a tribute seems to have been imposed which the vassal himself should bring to the king; all rebellious talk and action must be reported to the overlord. Such stipulations could be expressed in the apodictic or casuistic form,²⁰⁶ of which the latter is, however, by far the most common.²⁰⁷ All stipulations were directed towards the king; for example, they do not prohibit slander per se, but they prohibit slander against the king. Thus, it is the king's interests, the stability of his throne and empire, and the assurance of the future succession of his sons, which are the object and aim of the obligations laid on the vassal.²⁰⁸

205 cf. McCarthy, Treaty and Covenant, p.33

206 On these terms, cf. below, p.298ff.

207 According to McCarthy, Treaty and Covenant, p.37, the apodictic formulation of the stipulations is, with the exception of twelve single cases, confined to the Hugganas and the Kupanta-KAL treaties; and, since each of these men was specially related to the Hittite royal family, it may be that this familiar apodictic formulation was used only when such business was contracted "within the family, so to speak".

208 cf. Gerstenberger, Wesen und Herkunft des 'apodiktischen Rechts', pp. 100f.

On the other hand, it is sometimes expressed that the vassal, in his turn, will enjoy the protection of his overlord from outside attack,²⁰⁹ as well as security with regard to his own future succession.²¹⁰

There is no agreement in the treaties on the inclusion or exclusion of a clause concerning the careful preservation of the treaty document and the reading of it at regular intervals. More often than not such a clause is lacking, which would militate against the view²¹¹ that this should be regarded as a separate formal element of the treaty form.²¹²

209 cf. Schmitt, op.cit., p.66 n.20. It should also be noted that this example, quoted by Schmitt, presupposes that the great king himself was under oath, cf. also McCarthy, Treaty and Covenant, p.47; Nötscher, "Bundesformular und 'Amtsschimmel'", pp. 211f; cf. further Fensham, "Clauses of Protection in the Hittite Vassal-Treaties and the Old Testament", p.140, who quotes the treaty between Muwatilis and Alaksandus: "The one who is your enemy is also the enemy of the Sun. The one who is the enemy of the Sun should also be your enemy"; and cf. also the similar kind of obligation taken on by the suzerain in the Duppi-Tessub treaty, Ancient Near Eastern Texts, p.204

210 cf. Baltzer, op.cit., p.24

211 Korošec, op.cit., pp. 14, 100ff, though acknowledging that this section appears in only a few treaties, reckons it as an independent element of the form; cf. also Mendenhall, "Covenant Forms", p.60.

212 cf. Thompson, op.cit., p.14, McCarthy, "Covenant in the Old Testament", p.228.

Further, the actual connection between the treaty document and the treaty relationship is not certain. Was it only when the treaty was written down that it became fully valid,²¹³ or was it simply a matter of respect for the document, and legal necessity in case of future dispute, which led to the occasional insertion of a 'document clause'?

With the next section, however, there is uniformity in the treaties. The gods are invoked as witnesses to the treaty, not only the gods of Hatti, but also those of the vassal, as well as natural phenomena, mountains, rivers, sea, heaven and earth, winds and clouds. These witnesses, which are also guarantors of the fulfillment of the treaty regulations, are invoked by the suzerain, but this section implies nevertheless that the obligations imposed by the

213 So Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p.55; Baltzer, *op.cit.*, pp.26f. This view goes back to Korošec, *op.cit.*, pp. 15ff, who based his opinion on a passage from the Code of Hammurabi: "if a seignior acquired a wife, but did not draw up the contracts for her, that woman is no wife" (cf. T.J. Meek, in Ancient Near Eastern Texts, p.171 para.128). Such a concern for the actual written document is, however, evidenced also in the Hittite treaty between Mursilis II and Talmisharruma (cf. Beyerlin, *loc.cit.*), and others. On the other hand, in the treaty between Talmisharruma and Ulmi-Tessub the treaty tablet is replaced without anything being said of the treaty relation having been broken off as a result of the loss of the treaty tablet, cf. the discussion in McCarthy, Treaty and Covenant, pp. 38f and n.47.

suzerain have already been accepted under oath by the vassal.²¹⁴

The list of witnesses is followed by a section containing curses and blessings in case of violation or observance of the treaty. The wording of this section is usually stereotyped, and the curse and blessing formula of the Duppi-Tessub treaty may be taken as a typical example: "should Duppi-Tessub not honour the words of the treaty and oath, may these gods of the oath destroy Duppi-Tessub together with his person, his wife, his son, his grandson, his house, his land, and together with everything he owns. But if Duppi-Tessub honours these words of the treaty and the oath that are inscribed on this tablet, may these gods of the oath protect him together with his person, his wife, his son, his grandson, his house (and) his country".²¹⁵ This formula occurs often with little variation, but there is one case in particular, the Mattiwaza treaty,²¹⁶ where there

214 cf. McCarthy, Treaty and Covenant, pp.39f. The form whereby the vassal swore his obedience to the stipulations is not attested in the treaty texts, but the oath is sometimes mentioned (cf. McCarthy, *ibid.*, p.53 n.8), and is described in the ritual whereby Hittite soldiers swore obedience to their king.

215 cf. Ancient Near Eastern Texts, p.205. Of course, in the case of breach of treaty the Hittite king would himself effect the punishment, but the power and efficacy of the curse in the minds of the treaty partners should not be underestimated, cf. McCarthy, Treaty and Covenant, pp. 93f.

216 cf. Ancient Near Eastern Texts, p.205.

is a longer, colourful list of curses, followed by a shorter, general blessing,²¹⁷ and there are other cases where the curse and blessing formula is lacking.²¹⁸

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- 217 This is also to be seen in the Hittite Soldiers' Oath, for which cf. A. Goetze (trans.), Ancient Near Eastern Texts, pp. 353ff; cf. further, the treaty between Suppiluliumas and Hugganas which concludes with a curse formula but no blessing.
- 218 For example, the treaty between Muwatilis II and Talmisharruma, for which cf. McCarthy, Treaty and Covenant, pp. 43f. This treaty differs also in other respects from the 'normal' form. Another example where the curse and blessing formula is missing is probably the treaty between Suppiluliumas and Niqmadu. Its form is: titulature, historical prologue, stipulations (for Baltzer, divided into 'Landbeschreibung' and 'Grundsatzklärung'. Against the former as a distinct treaty element, cf. McCarthy, Treaty and Covenant, p. 30 n.13; and against the latter, cf. above n.204), and list of divine witnesses (cf. the translation of the treaty in Baltzer, op.cit., p.192). It is denied by McCarthy, Treaty and Covenant, pp. 41f n.56, that this text can be called a treaty, mainly because there is no reference to it in later agreements between Ugarit and other states. This, according to McCarthy, "Covenant in the Old Testament", p.227 n.23, is an important point since "the suzerain's demand to control the external affairs of vassals was respected in agreements between a vassal and other princes, and this in matters relating to fugitives, etc...." However, McCarthy himself, Treaty and Covenant, p.33, shows that Ugarit enjoyed a specially favourable position under Hatti, whereby, as was not the case with other vassals, her fugitives were returned, and the Ugaritic throne succession was not under Hittite control. This relative independence of Ugarit from Hittite interference could explain the absence of reference in later documents to the Suppiluliumas/Niqmadu treaty; cf. also Huffman, op.cit., p.105 n.20.

Thus, while one may posit a 'standard' form for these treaties, consisting of: titulature, historical prologue, stipulations, list of divine witnesses, curse and blessing formula, it should be kept in mind that the form was far from rigid. Its flexibility is apparent not only from some of the more minor variations mentioned above, but also from other Hittite treaties²¹⁹ in which the order of elements is changed, while the curse and blessing formula is omitted in at least one, and two have a concluding list of human witnesses. So the Hittite vassal treaty, which was essentially a 'contract established by an oath', though most often cast in a generally uniform scheme, was, nevertheless, not confined to a rigid pattern, but could vary considerably both in the elements employed and in the order in which they were set in the treaties.

With the collapse of the Hittite Empire and the continued weakness of Assyria, it is not for four hundred years, towards the end of the ninth century B.C., that vassal treaties appear once more, though it seems in fact that Assyria did make use of treaties in the thirteenth and twelfth centuries B.C.²²⁰ However, none of these texts has yet appeared.

219 For these, cf. especially McCarthy, Treaty and Covenant, pp. 42-48, together with the treaty between Suppiluliumas and Aziru mentioned above, n.201.

220 cf. McCarthy, Treaty and Covenant, p.68 and n. 1.

Apart from the Esarhaddon treaties, which are distinct in a number of ways, none of the Assyrian treaties from the end of the ninth century on are preserved complete. They are all in fragments, which makes it impossible to say anything with certainty about the general form in which they were cast.²²¹ It can only be shown that such elements as stipulations, curses and god-list follow one another in some of them, while many lacunae forbid conjecture either on what the other elements were or on their place within the treaty scheme. However, some points may be noted. The most striking common factor in the treaties is the long and colourful curse sections, as well as the absence of any blessing formulae. The absence of the latter in the treaties²²² is all the more striking since there are a few Assyrian building inscriptions which contain only a blessing.²²³

221 cf. Baltzer, *op.cit.*, p.25 n.4.

222 Noth, "For all who rely on works of the law are under a curse", The Laws in the Pentateuch and Other Essays, pp. 118-131, has given an elaborate exposition of the significance of the predominance of the curses in the Assyrian treaties, and of the emphasis on the curse, through being placed before the blessing, in the Hittite treaties. An exception in the Hittite treaties is the Kaska Treaty where the blessing precedes the curse; moreover, it is not at all certain that the position of the curse before the blessing does imply emphasis on the former, cf. McCarthy, Treaty and Covenant, p.103

223 cf. McCarthy, Treaty and Covenant, p.103 n.23. This refutes the suggestion of Frankena, "The Vassal-Treaties of Esarhaddon and the Dating of Deuteronomy", pp. 135f, that the explanation of the absence of any blessing in the Assyrian treaties may be that for the Assyrians obedience to the treaty stipulations would automatically effect a happy and blessed state for the vassals.

However, this absence may well simply reflect the hard and uncompromising nature of Assyrian policy.²²⁴ This is to be seen also in the fact that, instead of the familiar 'I-thou' of the Hittite treaties, the Assyrian king usually refers to himself in the third person; and, furthermore, in the fact that, with the exception of only one treaty, only the gods of Assyria are invoked as witnesses.²²⁵ Nor are any clauses of protection of the vassal to be found in the Assyrian treaties, as they are sometimes in the Hittite examples.²²⁶ Other peculiarities concern especially the curses: as well as being long and detailed, they are also to be found in different parts of the treaties; sometimes they are connected with the list of gods in such a way that each god is provided with a particular curse, while in another case, the treaty between Ashurnirari V and Mati'ilu, each stipulation concludes with a curse. This same treaty also begins with a long ritual curse when a ram was used to demonstrate to Mati'ilu what the results of his disobedience would be. These peculiarities are also applicable to the vassal treaty of Esarhaddon which, however, is distinct also in being the only fully preserved

224 cf. McCarthy, Treaty and Covenant, pp. 86ff, for a description of the 'Assyrian theory of society'; cf. further, *ibid.*, p.104.

225 The exception is the treaty between Esarhaddon and Baal of Tyre, which also mentions the Phoenician gods. McCarthy, Treaty and Covenant, p.79 n.37, suggests that this may show an attitude of special respect on the part of Esarhaddon towards Baal of Tyre; cf. also Frankena, *op.cit.*, pp. 130f.

226 cf. Fensham, "Clauses of Protection", p.141.

Assyrian vassal treaty.²²⁷ The treaty was, in fact, imposed on eight or more different parties on the same occasion, and the different copies of it have been used successfully to restore the complete treaty text.²²⁸ The treaty is concerned solely with assuring the succession to the throne of Ashurbanipal, and all possible means of preventing this are mentioned and expressly forbidden. Here again there is a list of gods in which each god is provided with a curse, and this is followed by a further long list of 'simile curses'.²²⁹ However, this treaty differs from the others in having a list of gods also at the beginning, between the titulature and the stipulations.

Thus, it appears that with the Assyrians, to an even greater extent than with the Hittites, there was no rigid treaty form, but that the essential, common treaty elements could be arranged freely. The most striking and characteristic element of the Assyrian treaties is the long and detailed curse section.

It is this last feature, together with the absence of any

227 In view of the subject matter of this treaty, Baltzer, *op.cit.*, p.88 nl.1 prefers to call it a "throne succession treaty", since the state of vassalhood is presupposed and not first founded here. But it may still be used as an example of Assyrian treaty making.

228 cf. D.J. Wiseman, "The Vassal Treaties of Esarhaddon", *Iraq* vol.XX, 1958, part I, p.2.

229 cf. Wiseman, *op.cit.*, p.26. On this type of curse, cf. Hillers, *op.cit.*, pp.18-26.

historical prologue in the Assyrian treaties, which has given rise to the view that a sharp distinction is to be made between the Hittite and Assyrian treaties.²³⁰ As far as the order of elements in the treaties, both within the Hittite and within the Assyrian group, is concerned, these could vary considerably. So this variation cannot be used to demonstrate structural differences between the Hittite and Assyrian treaties.

To take the historical prologue first: even if there are some Hittite treaties which lack this section,²³¹ it cannot be denied that the historical prologue is a characteristic element of the Hittite treaties, and not only of the treaties but of every sort of royal document. This section was used by the Hittites as a source of edification. The vassal should learn from it, not only the kind deeds of the suzerain which should arouse gratitude as a reason for faithfulness, but also the power of the Hittite king which should arouse fear as a further reason for faithfulness. On the other hand, the Assyrians seem to have made no use of history in this way, though, of course, in the broken state of the tablets not much weight can be laid on that argument. But the general impression of the Assyrian treaties is such that history, used as a means of persuasion by the Hittites, would be out of place here. Here power

230 cf. Mendenhall, "Covenant Forms", p.56 (though there appears to be more caution in, idem, "Covenant", IDB vol. 1, p.715); Huffmon, op.cit., p.109; Albright, From the Stone Age to Christianity, p.16

231 cf. above n.201.

replaces persuasion.²³² However, that does not mean that the historical section is peculiar to the Hittite treaties. In a treaty between Abba-AN of Yamkhad and Yarimlin of Alalakh,²³³ which dates from the seventeenth century B.C., two centuries before the appearance of the Hittite treaties, there is a historical prologue. Hittite influence on the treaty seems to be ruled out by the fact that, apart from the historical section, the treaty form departs radically from that of any of the Hittite treaties.²³⁴

232 It should also be noted that while the Hittites would appeal to history, in order to give the basis of a law, in Mesopotamia the appeal was made to the divine appointment of the lawgiver, cf. McCarthy, Treaty and Covenant, p.91 and n.43. This may be paralleled in the use of seals, especially in the Vassal Treaties of Esarhaddon. Here, an old Assyrian seal of the god Ashur has been placed between the seal of Sennacherib and a Middle Assyrian royal seal. This seems to have the aim of giving the impression of stability, antiquity and legitimacy, cf. Frankena, op.cit., p.124; Wiseman, op.cit., p.22. Dynastic seals were also used by the Hittites, cf. McCarthy, Treaty and Covenant, p.81 and n.6.

233 Huffmon, op.cit., p.105 n.18, denies that this is a treaty, but prefers to call it a "supplementary territorial agreement between suzerain and vassal (the suzerain swearing the oath), since a prior suzerain-vassal relationship is clearly indicated". As for the oath of the suzerain, this is indicated in other vassal treaties (cf. above n.209), and, also, the present text is clearly a sworn contract, which is the definition of a treaty, cf. McCarthy, "Covenant in the Old Testament", p.227 n.23.

234 On this cf. McCarthy, Treaty and Covenant, pp. 57ff.

The elaborate curses, together with the imitation rite of using an animal to demonstrate the consequences of disobedience, constitute the other factor which is generally taken to be peculiar to the treaties of the first millenium. It is true that generally speaking the Hittite treaties do confine themselves to a short curse and blessing formula in which both halves are about equally balanced. There is, however, one Hittite treaty, that between Suppiluliumas and Mattiwaza, where the curse is more fully developed and is longer than the blessing.²³⁵ This treaty was with Mitanni, and it has been suggested²³⁶ that in this case the Hittites were conforming to local usage in a country which had Syrian and Mesopotamian connections. But this is not completely satisfactory since it is clear, from the Soldiers' Oath for example,²³⁷ that long and expressive curses were not unknown to the Hittites. But, in spite of this (or, perhaps, indeed, because of this) the absence of such elaborate curses in the treaties, apart from this one exception, is very striking.²³⁸

235 cf. Hillers, *op.cit.*, p.33; and, for the text, cf. Ancient Near Eastern Texts, p.206

236 cf. McCarthy, Treaty and Covenant, p.54 n.18, and p.102.

237 cf. Ancient Near Eastern Texts, pp. 353f.

238 With regard to the provision of each stipulation with a curse in the Assyrian treaties, McCarthy, Treaty and Covenant, p.72, argues that this is simply a development of Hittite usage where each section of the stipulations concludes with: "if you do not do this you have gone against the gods of the oath". This b/ "brings the reminder of the divine sanction directly into the stipulations, and this is what our Assyrian treaty is doing in its own baroque style".

With regard to the imitation rites connected with the curses, these are exhibited, not only in the Hittite Soldiers' Oath,²³⁹ but there is also undoubtedly a connection with them in the early Abba-An treaty²⁴⁰ to which reference has already been made.

Thus, while broadly speaking two groups of treaties may be distinguished: the Hittite with its historical prologue, and short and balanced curse and blessing formula; and the Assyrian with its elaborate curses and imitation rites, this distinction should not be pressed too far, since the historical prologue is evidenced outside the Hittite treaties, and the broken condition of the Assyrian treaties makes it impossible to state categorically that they made no use of history;²⁴¹ and, further, the elaborate curse and imitation rites of the Assyrians were no novelty with them, but have their roots in centuries long past, and are also to be seen in Hittite documents. Further, when it is remembered that a vassal treaty is essentially the will of a superior imposed under oath, it will be clear that all the treaties stand in the one treaty tradition,²⁴² though subject, no doubt,

239 Ancient Near Eastern Texts, pp. 353f; and, for these rituals, cf. Hillers, *op.cit.*, pp. 19-24

240 cf. McCarthy, Treaty and Covenant, pp. 93, 103; and *ibid.*, pp. 185f (cf. lines 40f) for the text.

241 Thompson, *op.cit.*, p.15, suggests that the historical prologue may have been declared orally and not set in writing.

242 cf. Wiseman, *op.cit.*, p.28; Fensham, "Malediction and Benediction in Ancient Near Eastern Vassal Treaties and the Old Testament", p.1. For other contacts in the stipulations between the Hittite treaties, the Aramaic text from Sfiré, and the Assyrian treaty with Baal of Tyre, cf. McCarthy, Treaty and Covenant, p.81.

to some variation according to place of origin.

As soon as we turn to Josh. 24 in order to compare this record of a covenant conclusion with the extra-biblical treaty documents, a difficulty is encountered. Josh. 24 is not a treaty document, or a covenant document. Instead, it is cast in the form of a narrative about a covenant.²⁴³

Thus, while it is theoretically not impossible that the narrative should follow the sequence of the treaty draft,²⁴⁴ it should not be surprising if there are differences and especially if elements are included, such as the assent of the inferior party, which would not normally be included in a treaty draft. But a comparison may still be made.

Corresponding to the treaties, the first element of Josh. 24 is the titulature: "Thus saith the Lord, the God of Israel,"²⁴⁵

243 cf. Gerstenberger, "Review of McCarthy, Treaty and Covenant", JBL 83, 1964, p.199; Huffmon, op.cit., p.104 n.16; Nötscher, op.cit., p.194. Moran, "Moses und der Bundesschluss am Sinai", Stimmen der Zeit 170, 1961/62, p.126, calls it "ein Vertrag im Werden".

244 cf. McCarthy, "Covenant in the Old Testament", p.229 n.25

245 The prophetic character of the words הוה יי אלהינו has often been noted, and A.Lods, "Une tablette inédite de Mari intéressante pour l'histoire ancienne du prophétisme sémitique", Studies in Old Testament Prophecy (edit. H.H. Rowley), p.103, has pointed out a prophetic text from Mari which opens with "Umma....." - "Thus (saith)", and continues with a historical prologue; cf. also H. Schult, "Vier weitere Mari-Briefe 'prophetischen' Inhalts", ZDPV 82, 1966, pp. 228ff; A.Malamat, "Prophetic Revelations in New Documents from Mari and the Bible", VT Suppl. 15, 1966, pp. 207ff; Zimmerli, The Law and the Prophets, p.62; J.F. Ross,

Note 245 continued

"The Prophet as Yahweh's Messenger", Israel's Prophetic Heritage, pp. 98ff; Noth, "History and the Word of God in the Old Testament", The Laws in the Pentateuch and Other Essays, pp. 184ff. But for the possibility that this reflects the form of proclamation of a treaty, cf. Baltzer, op.cit., p.29 n.3; and E. Moerstad, Wenn du der Stimme des Herrn, deines Gottes, gehorchen wirst. Die primären Einführungen zu Dtn. 28: 3-6 und 16-19, Oslo 1960, p.23.

giving the name and title of the one granting the treaty. This is followed by the 'historical prologue' in vv.2b-13,²⁴⁶ which describes the past beneficial deeds of Yahweh on behalf of his people, thus arousing gratitude in Israel and laying the basis for the demand which follows.²⁴⁷

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- 246 In view of similar peculiarities in the treaties it has been objected that such 'stylistic variants' as Yahweh in the third person in v.7 should not be made an excuse for literary criticism, cf. Mendenhall, "Covenant Forms", p.67 n.40: L'Hour, *op.cit.*, p.13; and cf. the references to such changes of person in the treaties given by Baltzer, *op.cit.*, p.29 n.4. However, since Josh. 24 is not a covenant document for a start, and since Yahweh in the third person is not the only 'stylistic variant' in vv. 5-7, it seems that a critical treatment of these verses (as above pp.172ff) is justified.
- 247 That a simple equation of historical prologue and credo can be made, as Huffman, *op.cit.*, pp.104ff, thinks, seems doubtful. We have already noted (cf. above, p.182) the differences between this passage and Deut. 6: 20-24; 26: 5b-9. Here, in Josh. 24: 2b-13, there is given a catalogue of the historical dealings of Yahweh with his people up to the present, not in the form of a short credal confession of faith, as in the Deuteronomy passages, but in the form of a record of past relations of the two parties who are now to come into a treaty (covenant) relationship, quite as in the Hittite historical prologues. On the use of history with the Hittites, and the difference between it and a Heilsgeschichte, cf. McCarthy, Treaty and Covenant, pp.100ff (however, the latter, *ibid.*, p.102, understands Josh. 24: 2b-13 as a 'credo'). On the bestowal of land as a frequent element at the conclusion of the historical prologue, cf. Baltzer, *op.cit.*, p.21.

This is clear from the לִפְנֵי of v.14.²⁴⁸ The only pre-served stipulation is the command to fear and serve Yahweh,²⁴⁹ and to put away all other gods, but it is probable, from the reference to $\text{לֹא יִשְׁתַּחֲוֶה לְאֱלֹהִים אֲחֵרִים}$ in v.25, that there were other demands as well.²⁵⁰ The demand for the exclusive worship of Yahweh can be paralleled in the treaties by the demand for exclusive service of the suzerain and the prohibition of independent foreign alliances.²⁵¹ This demand is followed by the choice, set by Joshua before the people, of which God they will serve. Parallels for this have been sought in the Hittite treaties.²⁵²

248 cf. above p.184 and n.133.

249 With Baltzer, op.cit., pp.30f, this is the Grundsatzklärung.

250 What these other demands may have been is a moot point. It has frequently been suggested that the Book of the Covenant, or part of it, belonged at this point of the ceremony recorded in Josh. 24; for early advocates of this view, cf. the references in Mowinckel, Le décalogue, p.35; cf. also Jepsen, Untersuchungen zum Bundesbuch, pp. 103f; J.L'Hour, op.cit., pp. 350ff. However, it is clear that it would be difficult, to say the least, to establish this position with certainty, cf. Baltzer, op.cit., p.31 n.5.

251 cf., for example, the Duppi-Tessub treaty, Ancient Near Eastern Texts, p.204: "Do not turn your eyes to anyone else". Though, cf. also Nötscher, op.cit., pp. 207f.

252 cf. Korošec, op.cit., p.26; Baltzer, op.cit., p.32 n.2; Thompson, op.cit., p.13.

Certainly, if the historical prologue is seen as the means whereby the suzerain justified his present action, theoretically the vassal could have the choice of whether or not to obey; but it is unlikely that refusal was ever seen as a practical possibility. The historical prologue was designed to arouse fear and respect as well as gratitude. Earlier,²⁵³ we saw this choice as closely connected with the putting away of the foreign gods both in Josh. 24 and elsewhere, so it seems best to see both as indigenous to the Shechemite cult. In the assent of the people, which follows next, we probably have a part of the ceremony of covenant (treaty) conclusion which would not normally be recorded on the draft of the treaties. However, such a response of the people is paralleled especially in the Esarhaddon Vassal Treaties, but also in Hittite sources.²⁵⁴

According to the scheme of the treaties we should now expect the list of witnesses, followed by the blessing

253 cf. above p. 186

254 cf. Frankena, *op.cit.*, p.140.

and curse. But in fact there are none of these.²⁵⁵ Instead, there now comes a brief notice concerning the covenant conclusion by Joshua, followed by references to the law, the written 'words' and the stone as witness. Here there certainly are factors which reflect the treaty tradition. In the treaties the stipulations are often referred to as the 'words'.²⁵⁶ In Josh. 24 we also have a witness in the form of a stone.²⁵⁷

- 255 On vv. 19-24 cf. above pp190ffBaltzer, op.cit., pp. 99f, has conjectured that when the blessing and curse was taken over by Israel it was 'historicized' in a way such as we find it now in vv. 19f, because in its original form it would so easily lead to the thought that blessing and curse would follow automatically as reward or punishment for fulfillment or non-fulfillment of the covenant demands (on this cf. also Fensham, "Common Trends", p.174) and so represent an encroachment on God's freedom. According to this it is possible that vv. 19f now replace something like that curse and blessing formula; but for this, of course, no evidence can be given. On the other hand, that there never was a curse/blessing formula in the treaty style is perhaps indicated by the fact that those who brought curse and blessing were the gods summoned as witnesses. On the absence of the latter in Josh. 24, cf. below, n.257.
- 256 cf. McCarthy, Treaty and Covenant, pp. 80f and n.3; Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p.53; L'Hour, op.cit., p.12; Moran, "Review of Baltzer, Das Bundesformular", pp. 104f.
- 257 However, in the treaties the stele or document was never considered as a witness, cf. L'Hour, op.cit., p.33 and n.154, against Dupont-Sommer's interpretation of Sfiré Stele I B 8; but cf. Beyerlin, Origins and History of the Oldest Sinaitic Traditions, p.60. It is obvious, of course, that the exclusive nature of the service which Yahweh demanded immediately precluded any list of witnesses to his covenant with Israel, such as the list of gods which is to be found

Note 257 continued

in the treaties. Yahweh himself is called as witness in the Old Testament, cf. e.g., 1 Sam. 12: 5; and also heaven and earth, as in the treaties, cf. e.g. Deut. 4: 26.

This reference to the stone has given rise to the view that the narrative is aetiological.²⁵⁸ While this may well be the case as far as the stone in particular is concerned,²⁵⁹ it does not, of course, say anything about the general historicity of any part of the chapter. The stone, interpreted as a witness, is just as old as any of the other elements.

It is clear, therefore, that Josh. 24 does preserve many elements of the treaty form: titulature, historical prologue, stipulations, witness; though it also omits one in particular: the curse and the blessing. However, as noted above, this chapter is not the draft of a treaty, but a narrative about a treaty; and, furthermore, the very fact that it is here made between God and people,²⁶⁰ and

258 So Alt, "Josua", p.199.

259 However, cf. Noth, Josua, p.139; Kraus, Worship in Israel, p.135

260 For a possible extra-biblical parallel to the idea of a covenant relationship between God, ruler and people, cf. M. Buber, Königtum Gottes (2nd edit.) Berlin, 1936, pp. 55ff, who finds a valid though late analogy among the south Arabian Sabeans. For a suggested Sumerian analogy, cf. M. Buss, "The Covenant Theme in Historical Perspective", VT 16, 1966, pp. 502ff (though cf. also Nötscher, op.cit., p.186, who holds that this 'covenant' deals not with religious relations between leader and god of Lagash, but with a new social order which the god sanctions). For the possibility that Baal-berith at Shechem was one party to a covenant with the ruling class of that city, cf. Clements, "Baal-Berith of Shechem", JSS 13, 1968, pp. 21-32; but on the latter cf. below n.266

not between two human parties, is bound to have had some effect both on form and content. For example, it made necessary the introduction of a mediator, Joshua. Therefore, although due to the nature of the case, a certain outline of the sequence of events in the Israelite covenant ceremony cannot be given, it can nevertheless be understood that in order to express this relationship between Yahweh and Israel a legal form was adopted which was current in international dealings of the second and first millenium.

In spite of this, however, it should be emphasized²⁶¹ that it seems to be a dangerous procedure to draw historical conclusions on the basis of literary form.²⁶² As it is, we have seen that there is no convincing objection to seeing in the basis of Josh. 24 the record of a covenant ceremony which probably goes back to the earliest pre-monarchy period.²⁶³ This conclusion is not, however, to be drawn from the apparent fact that in this covenant use has been made of a treaty pattern which was widely known and used in international dealings. The value of this latter observation lies mainly in that, firstly, it is an

261 cf. above n.53

262 cf. also Baltzer, op.cit., p.17 n.6, who warns against mixing form-critical and historical questions; cf. further, McCarthy, "Covenant in the Old Testament", p.229.

263 On the tribes involved in this ceremony, cf. above, Pp.37f

aid towards the elucidation of Israel's understanding of the covenant in general and in particulars, and, secondly, it reinforces the necessity of dealing with Israelite literature and history, not in isolation, but against the contemporary Ancient Near Eastern background.

(c) Results

Our treatment of the subject of this chapter has yielded some clear results. The 'Israel' which is not to be seen in political action comes to full appearance in its faith. This is not to say that this faith took the form of united worship at a common sanctuary; for this there is no evidence. 'Israel' appears in its common acknowledgment of Yahweh as its God, and it is as such a unit that both north and south are treated by the prophets. Since the roots of Israel's national consciousness thus lie in its faith, its faith in Yahweh as its God and in itself as the people of Yahweh, our search for the origin of this national consciousness must be closely bound up with an enquiry into the origin of Israel's faith. In order to conduct such an enquiry it has first of all been necessary to ascertain how Israel's relationship with its God found concrete expression. In this connection it has been seen that it is inaccurate to imagine a unilinear development of Israelite religion from lower to higher forms. Such a view lays too much emphasis on the creative role of the classical prophets at the expense of the ideas and practices of earlier ages. Israel's religion had clear beginnings in the early interpretation of the Exodus event as evidence of the concern

of Yahweh of Sinai on her behalf. Israel from the beginning reckoned itself as the elect people of Yahweh and this conviction found concrete expression in the form of a covenant which it believed to exist and which it regularly celebrated between Yahweh and itself. For the pre-monarchy period there is a reliable tradition in Josh. 24, the basis of which goes back to about the time of Joshua even if its connection with Joshua himself ^{is not original} has no originality. This ? tradition gives a trustworthy idea of how this covenant was conceived and expressed. In the covenant ceremony, the past history of Yahweh's dealings with his people was recited, and the law which they in turn had to obey was proclaimed. It seems, moreover, that this ceremony was not carried out without ritual, for, as far as can be ascertained, the promise of obedience by the people was symbolically enacted through the use of an old ritual of putting away foreign gods. The original meaning of this ritual may have been something different from its significance in the context of the Israelite covenant festival, but in the latter context it was apparently retained as an expression of obedience.

Furthermore, this was evidently not the only extraneous element employed by Israel in its covenant ceremony. For, if our presentation above is correct, the covenant with Yahweh was influenced to a marked degree by the form of Ancient Near Eastern vassal treaties of which examples are known especially from Hittite and Mesopotamian sources. How, when and where this influence made itself felt has not yet been discussed.

It may have been at Shechem itself,²⁶⁴ or conceivably even earlier than the event recorded in Josh. 24.²⁶⁵ If this influence did take place at Shechem, it may have come through the cult of Baal-berith which was practised there,²⁶⁶

264 cf. Schmitt, op.cit., pp. 87ff

265 Since the vassal treaty was an international treaty form it is certainly possible that it was known among the nomads who were later to make up Israel.

266 The points at issue here are clearly dealt with by Clements, "Baal-Berith of Shechem". Clements, however, does not allow that the vassal treaty form is to be found in Josh. 24, and, though he argues that the cult of Baal-Berith at Shechem took the form of a covenant between Baal and the men of Hamor, a ruling class in the city, and through the latter with the rest of the citizens of Shechem, he is also of the opinion that it was not from this cult that the Israelite conception of a covenant between Yahweh and themselves derived. While we would agree here with the latter point, and with the reasons which Clements gives for it: viz. because (a) the social structure of the Shechemite society was totally different from that of the Israelites, and (b) there is a historical kernel to the Sinai tradition, it should still be noted that the form of the Shechemite cult is still not definitely settled. Even if the covenant implied by the name בְּרִית יְהוָה is to be identified with the covenant implied by the name בְּרִית גִּלְגָּל (so Clements, *ibid.*, p.29), the conclusion does not necessarily follow that this covenant was one in which the בְּרִית יְהוָה constituted one party and בְּרִית גִּלְגָּל the other. The name בְּרִית יְהוָה may in fact cover two or more different parties which had made a covenant among themselves, a covenant of which the גִּלְגָּל was a witness. That Baal could in these circumstances still be known as בְּרִית גִּלְגָּל is probable in the light of the covenant made between David and Jonathan which, in 1 Sam. 20: 8, is called a בְּרִית יְהוָה.

though it must be admitted that the evidence for this is far from conclusive. At any rate, nothing definite on this subject can be proposed until the nature of - the event which took place at Sinai has been investigated. For the moment we may conclude by saying that the covenant celebrated at Shechem in the pre-monarchy period, the record of which is preserved in Josh. 24, involved the establishment and confirmation of a relationship, a fellowship between Yahweh and Israel, and yet a fellowship of which the continued validity was dependent on Israel's obedience. It is easy to see how now one and now the other aspect of this relationship could be emphasized. It included elements of both grace and contract:²⁶⁷ grace, in that Yahweh, through his gracious benevolence towards Israel, was the initiator and source of Israel's existence and freedom; and contract, in that their future existence and freedom as the people of Yahweh was dependent on their submission to his revealed will. Israel is now called upon to make obedient response to God's action in history.

267 cf. Zimmerli, The Law and the Prophets, p.54; idem, "Das Gesetz im A.T.", p.270; B.W. Anderson, "God, O.T. view of," IDB vol. 2, p.421.

CHAPTER 3

Israel as the Covenant People of Yahweh

(a) The Worship of Yahweh in Judah of the Monarchy Period.

We have argued that the relation between Yahweh and 'Israel' in the pre-monarchy time was expressed in the form of a covenant which was celebrated at regular intervals, and that the continued existence of this covenant was dependent on Israel's observance of the law which was proclaimed at this covenant ceremony. It should be emphasized, however, that the sense in which we have used 'Israel' hitherto is simply that of those tribes which participated in the covenant ceremony at Shechem, as recorded in Josh. 24. Although the term 'Israel' is used, for the Davidic and Solomonic periods, and by the prophets, in a comprehensive sense to include both northern and southern tribes,¹ there is no persuasive evidence that this comprehensive usage is historically correct for the covenant event at Shechem in the pre-monarchy period. Rather, it is most probable that those who participated in the covenant celebration at Shechem were the tribes which lived in the immediate environment of that city, i.e. the "house of Joseph". This means that what has been so far described as the

1 This is the generally accepted position, and it is assumed that this usage is 'amphictyonic', i.e., that it is based on the name 'Israel' as the designation of a federation of twelve tribes in the period of the judges.

covenant relation between Yahweh and Israel is in fact the form in which Yahweh was worshipped by the group of tribes in the central area west of Jordan. That does not exclude the possibility that similar conditions prevailed in Judah,² though, unfortunately, no similar tradition has come down to us for this area and from this time. However, the conclusion is not thereby inevitable that Judah must remain totally out of consideration in an investigation of the religion of the pre-monarchy period. Although direct and contemporary records are lacking, there is abundant material, especially in the psalms and prophetic literature, for a reconstruction of the forms and expressions of the Yahwistic faith in Judah in the monarchy period. And from these sources something may be concluded on the religious conditions which prevailed in Judah in the pre-monarchy time unless the, to us, improbable theory is adopted that Judah was wholly Canaanite in origin,³ and that it took on the Yahweh religion and

2 We are not concerned at this point so much with the peripheral tribes of Issachar, Zebulun, Naphtali, etc. The gradual spread of Yahwism to these tribes and their incorporation into the covenant community is readily understandable. The main problem is the tribe of Judah, since it is this tribe which appears as an independent unit over against 'Israel', and, furthermore, it is Judah which, after the fall of the northern kingdom, survived for about 130 more years as the people of Yahweh, and it is this people to which we owe the final stages of the transmission of the Old Testament tradition.

3 So Oesterley and Robinson, A History of Israel, Oxford 1932, vol. 1, pp. 63, 100, 169f. On this, cf. also Rowley, From Joseph to Joshua, p.5 n.3.

was included among the tribes of Israel only under the influence of David.

First of all, then, attention must be directed towards the forms of worship which were practised in Judah in the time of the monarchy, and in this connection a tradition which is of prime importance is that dealing with the covenant which was believed to exist between Yahweh and the Davidic king.

(i) The Covenant with David

It has been argued that the election of David, coupled with that of Mt. Zion,⁴ was a specifically Judean tradition opposed to the Exodus/Sinai tradition which was preserved in the north,⁵ and that it was not until after the time

4 On the relation between the idea of the election of Zion and that of David, cf. E. Rohland, Die Bedeutung der Erwählungstraditionen für die Eschatologie der alttestamentlichen Propheten, pp. 119ff., who thinks that the tradition of the election of David presupposes that of the election of Zion which is thus primary. Rohland (pp. 122f) finds support for this in, e.g. Ps.2: 6. However, against this view cf. Clements, God and Temple, p.49 n.2; Kraus, Die Psalmen, BKAT 1961, pp. 881ff; cf. also Gese, "Der Davidsbund und die Zionerwählung", ZThK 61, 1964, pp. 13f. The view adopted on this particular issue has, of course, no effect on the fact that Mt. Zion, in pre-Israelite days, was considered as a divine abode from which Israel derived cultic traditions which it adapted to its own particular faith, cf. Rohland, op.cit., pp.131ff; Clements, op.cit. pp. 48ff.

5 cf. especially L. Rost, "Davidsbund und Sinaibund", ThLZ 72, 1947, cols. 129ff; and the table of election traditions used by the individual prophets set out in

Note 5 continued

Rohland, op.cit., p. 266. We are not here concerned with the theory, proposed by R. Bach, Die Erwählung Israels in der Wüste, Bonn Dissertation, 1951, that there was also a tradition of Yahweh's 'finding' Israel in the wilderness, independent of the exodus tradition. Bach's theory, which is based on such passages as Deut. 32: 10; Hos. 2: 4f; 9: 10; 13: 5; Jer. 2: 2f; 31: 2f, is followed by Rohland, op.cit., pp. 27ff.; but cf. Clements, Prophecy and Covenant, p.47; Gese, "Bemerkungen zur Sinaitradition", ZAW 79, 1967, pp. 146ff.

of Josiah's reform that these two independent circles of tradition were combined.⁶ Whether this is a too neat division and parcelling out of the different traditions will be discussed shortly. But first the nature of Yahweh's covenant with David and the contrast which has been drawn between it and the covenant with Israel must be examined.

Whatever view we adopt of the structure, composition and nature of 2 Sam. 7 - whether it is taken as a Deuteronomic composition based on older traditions,⁷ or as consisting of an original nucleus supplemented by later additions,⁸

6 cf. Rost, *op.cit.*; von Rad, Old Testament Theology, vol. 1, pp. 47, 66, 338f; Newman, The People of the Covenant, p. 164 n. 23.

7 cf. R.A. Carlson, David the Chosen King. A Tradition-Historical Approach to the Second Book of Samuel, Uppsala 1964, pp. 106ff.

8 The basic work here is that of L. Rost, "Die Überlieferung von der Thronnachfolge Davids", in Das kleine Credo und andere Studien zum A.T., pp. 159ff. Rost found that the original text of this chapter was to be found in vv. 1-7, 11b, 16, 18-21, 25-29. Noth at first accepted this (Überlieferungsgeschichtliche Studien, pp. 64f), but later (cf. "David and Israel in 2 Sam. 7", in The Laws in the Pentateuch and Other Essays, pp. 250ff) modified his view and concluded that, although the form-critical and literary unity of the chapter cannot be guaranteed, there is, nevertheless, a unity of content; cf. also Clements, Abraham and David, p. 53 n.18.

or as an aetiological legend⁹ - there can be no doubt that it reflects a tradition, current in the time of David or shortly afterwards, that Yahweh had chosen David and his dynasty and made a covenant that the descendants of David should always occupy the throne in Jerusalem. Such a judgement is not necessarily dependent on the date of 2 Sam. 7, or its original nucleus, for there is other evidence, outside the chapter, that such a tradition was current from an early period.¹⁰ This covenant between

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- 9 So Mowinckel, Tetrateuch-Pentateuch-Hexateuch, pp. 84f. According to Mowinckel, literary-critical attempts to get back to the original oracle of Nathan are of no avail. The whole chapter is aetiological, with the aim of providing an answer to the question why Solomon and not David built the temple for Yahweh. The promissory element of the chapter is nothing but an echo of the prophecies made annually at the temple feasts, of which there are examples in Pss. 89, 132.
- 10 cf. the 'Last Words of David' in 2 Sam. 23: 1-7. The date of composition of this poem is naturally a matter of dispute. Johnson, Sacral Kingship, pp. 16f, argues that 'no conclusive evidence has been advanced for denying the Davidic authorship of at least the body of the poem'; cf. also Kraus, Worship in Israel, pp. 180f. For a different opinion, besides the references in Johnson, loc.cit., cf. Rohland, op.cit., pp. 211ff, who puts the poem in the time of Hezekiah. cf. further 2 Sam. 3: 9; 1 Kings 2: 24; and Rost, op.cit., p.166. That there is lack of harmony in the tradition of whether David received the promise directly or indirectly through Nathan, only serves to confirm the authenticity and early currency of the tradition, cf. Rohland, op.cit., p.209.

Yahweh and David was the foundation on which the Davidic dynasty rested. It was an 'everlasting covenant' (בְּרִית עוֹלָם 2 Sam. 23: 5) which guaranteed, not only the perpetuation of the Davidic dynasty in Jerusalem, but also the father-son relationship between Yahweh and the reigning king.¹¹

It is probable that there is here a reflection of the ancient oriental kingship ideology, according to which the king was conceived of literally as the son of the god.

But the fundamental alterations in such a conception which were carried through in Israel under the influence of the Yahweh religion are amply illustrated in several Old Testament passages.¹²

No longer is the king physically the son of Yahweh: he is the son of Yahweh only by adoption at his accession to the throne.¹³ Through election the king became the son of Yahweh and as such he stands in a particularly intimate relation to Yahweh.¹⁴ It is this relation, designated a covenant, which Yahweh promised

11 cf. Ps. 2: 7. On the eternal nature of the Davidic covenant, cf. Pss. 21: 5b (EVV.4b); 45: 7 (EVV.6); 72: 17; 89: 30, 37f (EVV. 29, 36f).

12 The schematizing and generalizing nature of the work of Engnell, Studies in Divine Kingship in the Ancient Near East, Uppsala 1943, is well known. For a criticism of his whole approach reference may be made especially to Mowinckel, He that Cometh, pp. 21ff; The Psalms in Israel's Worship, vol. 1, pp. 50ff; and Noth, "God, King and Nation in the Old Testament", The Laws in the Pentateuch and Other Essays, pp. 145ff; for a discussion of Ps. 45: 7 in particular cf. Johnson, op.cit., p.30 n.1.

13 cf. Noth, "God, King and Nation in the Old Testament", pp. 172f; Mowinckel, He that Cometh, p.78; R. de Vaux, Ancient Israel, pp. 112f.

14 cf. especially Ps. 89: 20-38 (EVV. 19-37).

to maintain for ever between himself and the Davidic king. The individual king might do evil, and for that he would be punished, but that would not invalidate the covenant promise which Yahweh had made.¹⁵ So assured was the king of his election and of Yahweh's promise that in times of distress he could cry:

Lord, where is thy steadfast love (יְיָ אֱלֹהֵינוּ) of old,
which by thy faithfulness thou didst swear to David?

(Ps. 89: 50, EVV.49)

Yahweh's steadfast love, or, his 'devotion'¹⁶ implies here his faithfulness and loyalty to the promises bestowed on the Davidic dynasty.¹⁷

15 cf. Ps. 89: 31-38 (EVV. 30-37).

16 So Johnson, *op.cit.*, p.22 n.2.

17 cf. especially N.H. Snaith, The Distinctive Ideas of the Old Testament (Schocken Paperback), 1964, pp. 98ff, who argues that 'the original use of the Hebrew chesed is to denote that attitude of loyalty and faithfulness which both parties to a covenant should observe towards each other', and that 'unless this close and inalienable connection with the idea of the covenant is realized, the true meaning of chesed can never be understood'. For a rather different view, which takes the word in the more general sense of kindness or indulgence 'apart from the constraint of law', cf. A. Lods, The Prophets and the Rise of Judaism, London 1937, p.89.

If we are to follow Kraus,¹⁸ the cultic proclamation and celebration of the Davidic covenant took place annually in Jerusalem, on the first day of the Feast of Tabernacles, as part of a 'Royal Festival on Zion'. Here, together with Yahweh's choice of Zion, the election of David and his dynasty was regularly cultically 'actualized'.¹⁹ The nature of this covenant between Yahweh and David was promissory.²⁰ To be sure, if the individual king violated the statutes of God he would be punished, but this would not mean the end of the covenant. The promise was that David's line should endure for ever, so the action of the individual member of that line would affect only his own particular

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- 18 Kraus, Worship in Israel, pp. 183ff. For strong objections to this theory cf. Mowinckel, The Psalms in Israel's Worship, vol. 2, pp. 230f, 237ff. Mowinckel himself (*ibid.*, vol.1, pp. 129f) thinks that the election of David and that of Zion formed part of the Enthronement Festival of Yahweh which was part of the New Year Festival. The questions involved here are too complex to be dealt with at this point and it must suffice simply to note that both Mowinckel and Kraus at least agree in seeing the renewal of the Davidic covenant as a regular constituent of the Jerusalemite cult whatever its particular framework may have been. For a short appraisal of the work of Mowinckel and Kraus, cf. H. Ringgren, The Faith of the Psalmists, London, 1963, pp. xiiff, 93.
- 19 For a discussion of this term, cf. B.S. Childs, Memory and Tradition in Israel (SBT 37), London 1962, pp. 81ff; von Rad, Old Testament Theology 2, pp. 104f; Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 70f.
- 20 cf. e.g. Mendenhall, "Covenant", IDB vol. 1, pp. 717ff.

standing before Yahweh and not that of the dynasty as a whole. It is this aspect of the Davidic covenant which has been emphasized by the majority of scholars with the result that the impression is given that the Davidic and the Sinaitic covenants were more or less mutually exclusive. The Sinaitic covenant was conditional, hedged about with many laws which demanded observance if the covenant was to be continued; the Davidic covenant was unconditional, its existence was not dependent on the observance of commandments. If this view is correct, then two courses are open: either, the Davidic and the Sinaitic covenants were separate and independent traditions preserved in southern and northern circles respectively, and not brought into connection until after the time of Deuteronomy;²¹ or, assuming that the Sinaitic covenant also had a place in the Jerusalem cult, it was assigned an inferior position and largely fell into the background behind the Davidic covenant, to be brought to a prominent position again²² only at the time of Josiah's reform.

21 cf. above notes 5 and 6

22 cf. for example, G.E. Wright, "Cult and History", Interpretation 16, 1962, p.17, who attempts in this way to explain the 'great dislocation of the Sinai and Exodus themes which forms the basis of much of the reconstruction of Noth and von Rad' (but cf. also Wright, The Old Testament against its Environment, pp. 66f.); Gese, "Bemerkungen zur Sinaitradition", p. 145; Zimmerli, The Law and the Prophets, p.75; see also Kraus, Die Königsherrschaft Gottes im Alten Testament, Tübingen 1951, pp. 45ff.

Now, it is quite true that, at least on the surface, these two covenants appear to be different in form and content;²³ yet it is seriously to be questioned that this difference meant that they were wholly incompatible or that the one had to take a strictly second place to the other. In other words, there is sufficient evidence in the Old Testament tradition to show that the tradition of the Davidic covenant gained a place within the established Yahweh worship as a constituent of a festival grounded in the traditions of Exodus and Sinai. The very existence of the Davidic covenant presupposes that Yahweh was already acknowledged as God and worshipped in some form by those for whom the Davidic covenant was legitimate and valid. The Davidic covenant did not arise in a vacuum. It originated in the context of a definite form of Yahwism, and there are several indications that it did not displace the earlier form of worship, but was assimilated into the framework of Yahwism as already practised in Judah.

23 cf. Clements, Abraham and David, pp. 53f; D.N. Freedman, "Divine Commitment and Human Obligation", Interpretation 18, 1964, pp. 420f, 427ff.

(ii) The Sinaitic Covenant in Judah of the Monarchy Period.

In spite of the fact that the authenticity of the references to the Exodus in the Book of Isaiah is doubtful,²⁴ it is hardly legitimate to conclude that the exodus tradition had little, if any, importance in the Jerusalem cult. The exodus tradition is used by both Micah²⁵ and Amos,²⁶ while

- 24 Is. 10: 24-26; 11:15f; cf. 4: 3-6. Rohland, op.cit. pp. 112f, argues that 11: 15f presuppose the conditions of the exile, while 10: 24-26, which are not the direct continuation of what precedes, reveal their post-Isaianic date, not only in their vocabulary, but also in the fact that they connect the two basically different traditions of the victory over the Midianites and the exodus, a connection which in the Psalter is only to be found in the very late Pss. 78 and 106. As for 4: 3-6 (cf. Rohland, op.cit., pp. 115f), even if v.5 does go back to Isaiah, it only refers to the cloud and pillar of fire from which nothing of value can be derived for the exodus as an election tradition with Isaiah. But cf. also G. Henton Davies, "The Yahwistic Tradition in the Eighth Century Prophets", pp. 40f.
- 25 cf. Mic. 6: 4f and Beyerlin, op.cit., pp. 69f, 73. In Mic. 2: 7, by adopting the emendations proposed in B.H.,³ Beyerlin (op.cit., pp. 71f, 72n.2) sees a further reference to the Exodus-Conquest tradition. Here it is used by Micah's opponents to prove Yahweh's will to bless Israel, and so to discount Micah's threats of judgement.
- 26 cf. Amos 2: 9f; 3: 1; 4: 10; 9: 7. Amos preached in the northern kingdom, but he came from Tekoa, some 10 miles south of Jerusalem. If Amos 1: 2 and 9: 11f may be taken as genuine utterances of the prophet, then he was also quite familiar with the Davidic/Zion traditions, cf. Clements, Prophecy and Covenant, p. 49 n.1.

many Psalms, together with the Song of Moses in Ex. 15: 1-18, clearly reveal its significance for worship in the Jerusalem temple.²⁷ In addition to this, there is also evidence that the Sinai tradition was not neglected in Jerusalem. Ever since the fundamental work of Mowinckel,²⁸ the importance of the cult in the transmission and shaping of the JE account of the events at Sinai has been stressed,²⁹ and the influence of this tradition has been traced in the Psalms and Prophets. Pss. 50 and 81 come in for special consideration. In the former, vv. 1-6 give a vivid description of a theophany very reminiscent of the account of

27 cf., e.g., Ps. 78. For literature on this psalm cf. the references in Clements, Prophecy and Covenant, p.64 n.4; cf. also Ps. 95 and Johnson, Sacral Kingship, pp. 68ff. The Song of Moses is perhaps the best example of the reception of the exodus election tradition into the Jerusalem cult, for here (in v.17) Zion is given as the aim of Yahweh's leading. This is how the psalm probably should be understood in spite of F.M. Cross and D.N. Freedman, "The Song of Miriam", JNES 14, 1955, pp. 237-250 who draw in Ugaritic parallels to try and date the song in the early judges period. Against this cf. especially H. Wildberger, Jahwes Eigentumsvolk, ATANT 37, 1960, p.21 n.12, pp. 92, 102; and also Schmidt, Königtum Gottes, BZAW 80, pp. 45, 65f. The view of Cross and Freedman, which is based on a proposal by Albright in a review of B.N. Wambacq, L'épithète Jahvé Seba'ôt, in JBL 67, 1948, p.381 n.5, is followed particularly by R. Lack, "Les Origines de Elyon, le Très-Haut, dans la Tradition cultuelle d'Israel", CBQ 24, 1962, pp. 59ff, who also considers that, as in Ugarit, the mountain of Ex. 15: 17 and Ps. 78: 54 is simply the land; cf. also Moran, "Some Remarks on the Song of Moses", Biblica 43, 1962, p.327.

28 Mowinckel, Le décalogue, Paris 1927, pp. 120ff.

29 cf. von Rad, "The Problem of the Hexateuch", pp. 20ff.

the Sinai event,³⁰ though in this instance Zion is the place of God's revelation. The prophetic character of the psalm has often been noted,³¹ but this is no reason for denying to the psalm a place within Israel's cultic worship.³² Ps. 81 is particularly interesting in that here the theophany of Yahweh is directly connected with the deliverance from Egypt.³³ There are several other psalms which could also be mentioned in this connection, such as Ps. 68 with its description of smoke and fire,³⁴ and

30 cf. Ex. 19: 16 and Deut. 33: 2; and compare also Amos 1: 2. On the theophany cf. von Rad, O.T. Theology, 1, pp. 366f; Kraus, Worship in Israel, p. 216, and the criticism by Ringgren, The Faith of the Psalmists, pp. xvif.

31 Compare vv. 7ff with Is. 1: 10ff; Jer. 7: 21ff; Amos 5: 21ff; Mc. 6: 6ff; and cf. G.W. Anderson, "The Psalms", in Peake's Commentary on the Bible, edit. H.H. Rowley, M. Black, 1962, paras. 368f, 370c. Gunkel (cf. Gunkel-Begriff, Einleitung in die Psalmen, 2nd ed., Göttingen 1966, p. 364) argued that Pss. 50 and 82 are imitations of the prophetic Gerichtsrede, for which cf. below pp. 261ff.

32 cf. Weiser, The Psalms (O.T. Library, London 1962), pp. 393ff; but clearly one does not have to agree with Weiser in the ascription of practically every psalm to the covenant festival.

33 cf. v. 11 (EVV 10). Since Joseph is used to designate Israel it has been claimed that this psalm is of north Israelite origin, cf. Schmitt, Der Landtag von Sichem, p. 22; Weiser, op.cit., p. 533. But against this, cf. Kraus, Die Psalmen, pp. 561 ff.

34 cf. also the description of Yahweh as 'the one of Sinai' in v. 9 (EVV. 8), and cf. Johnson, op.cit., p. 79 n. 4 with refs. Whatever may be the history of the psalm and its composition it seems probable that it formed part of the liturgy of the pre-exilic Jerusalem temple, cf. vv. 17f (EVV. 16f) and Beyerlin, op.cit., pp. 34f; Johnson, op.cit., p. 81. For a defence of the unity of the psalm cf. Johnson, pp. 77ff.

Ps. 97 which has similar allusions.³⁵ It is, then, scarcely a matter of wonder that such elements of the Jerusalem cult are reflected in the records of the two southern prophets Isaiah³⁶ and Micah.³⁷

In the course of the last chapter we found that the covenant relation between Yahweh and Israel, as commemorated at Shechem, had a definite form. Not only did it show strong affinities with the Hittite treaty form, but it was also concluded that there is no evidence to suggest that covenant in the O.T., when used of the relation between Yahweh and Israel was ever anything other than a relation

35 cf. Beyerlin, op.cit. p.34; Johnson, op.cit. pp.95ff.

36 On Is. 6 cf. V.Maag, "Malkut JHWH", VT Suppl. 7, 1960, p.143; Johnson, op.cit., p.64 n.5. In spite of the objections of F. Schnutenhaus, "Das Kommen und Erscheinen Gottes im Alten Testament", ZAW 76, 1964, pp. 1ff, 12ff, that theophany elements of the pre-deuteronomie psalms of the Jerusalem cult need not necessarily be explained simply on the basis of the Sinai tradition, it seems more reasonable, in view of the fact that the proclamation of law is associated with the theophany (cf. below), to assume that it is in fact the Sinai tradition which is reflected here.

37 cf. Beyerlin, op.cit., pp. 30ff, 33ff, 40f. The vision of the prophet, related in 1: 2-7, reveals such close parallels with both the Sinai pericope in Exodus and the various psalms mentioned above that it must have originated under the influence of the Sinai tradition in the Jerusalem cult.

in which certain obligations were imposed on Israel, as a condition of the continued existence of the covenant relationship. That is, we cannot agree with the view that originally Yahweh's covenant with Israel was a purely one-sided affair, whereby Yahweh obligated himself to Israel by making certain promises, and that only subsequently, when Israel entered the land of Canaan, did this arrangement come to be expressed differently under the influence of legal forms, so that the covenant assumed the aspect of a bilateral agreement. Instead it seems more likely that Israel never regarded itself as the passive recipient of the promises of Yahweh, but always considered that a positive response was necessary so that the benefits of those promises could be enjoyed. This response was defined in the form of certain obligations to which Israel regarded itself as committed. We have still to investigate more closely what this covenant form was at Sinai, but in the meantime it may be said that if this view is correct, and if it is also true that the Sinai tradition continued to be remembered in the Jerusalem cult then it is only to be expected that we should find evidence in the psalms of the Jerusalem temple, and in the records of the southern prophets, of the continued proclamation of covenant law. The Sinai tradition comprises not only Yahweh's revelation of himself, but also the revelation of his will. Therefore, connected with the theophany, of which we found traces in Judah of the monarchy period, there should also be the proclamation of the divine will, the obligations to which Israel was committed in its covenant relationship with Yahweh.

Here again Pss. 50 and 81 are of particular interest, for both show very definite connections with the decalogue.³⁸ In the former, vv. 18-21 have been described as a paraphrase of the decalogue,³⁹ while Ps. 81: 10 (EVV.9) prohibits the worship of foreign gods.⁴⁰ It is especially noteworthy that it is this particular prohibition which is mentioned, for we found earlier that the putting away of foreign gods may have been a rite associated with the covenant festival as practised at Shechem.⁴¹ Furthermore, it is tempting to see the reforms in the Jerusalem cult, carried out by some of the Judean kings, in the light of this prohibition.⁴² In 1 Kings 15: 11 Asa is judged by the Deuteronomist to have done 'what was right in the eyes of the Lord', in that he purified Yahweh worship by abolishing cult prostitution and idolatry.

38 cf. Weiser, The Psalms, pp. 45f.

39 cf. von Rad, "The Problem of the Hexateuch", p.23.

40 The vocabulary is somewhat different from that of the first commandment of the decalogue in Ex. 20: 3, but this is hardly surprising since the intention is probably simply to make a general allusion to the fundamental presupposition of Israel's existence as the people of Yahweh.

41 cf. above pp.18ff and for other connections between Ps. 81 and Josh. 24, cf. Schmitt, *op.cit.*, pp.22f.

42 On what follows cf. Kraus, Worship in Israel, pp. 194ff.

In 2 Kings 11: 13ff a similar reform is recounted under the influence of the priest Jehoiada, after the death of Athaliah,⁴³ while the reform of Hezekiah was also directed to a purification of the cult.⁴⁴

43 In this section v.17 presents some difficulties. Jehoiada is said to have made the covenant 'between the Lord and the king and the people that they should be the people of the Lord, and between the king and the people'. The words 'and between the king and the people' are lacking in the parallel version in 2 Chr. 23: 16, and are sometimes taken as an addition. Noth, however ("Old Testament Covenant Making in the Light of a Text from Mari", pp. 115f), argues that these words are original while the reference to Yahweh and Israel as the people of Yahweh are later additions "arising from the idea that a covenant enacted by a priest would have to be a divine covenant". Thus the covenant which Jehoiada mediated would have been one in which Jerusalem and Judah reaffirmed the right to rule of the Davidic dynasty in accordance with the covenant whereby the Davidic dynasty had gained this position in the first place (2 Sam. 5: 3). Noth finds that this interpretation is in agreement with the context. One may agree with Noth that it is hardly justifiable to excise the last phrase of this verse, but it should be noted that the context demands something more than a renewed contract between the king and the people. The immediate sequel to the verse is an account of how the altars and images of Baal were destroyed which would make very suitable a preceding reference to a covenant between Yahweh and the king and people. Thus it would perhaps be best to retain the verse as it now stands.

44 2 Kings 18: 3. In the Chronicler's account of both the reform of Asa and that of Hezekiah (2 Chr. 15: 12ff; 29: 10f) they are specifically described as cultic ceremonies of covenant renewal. That this is not simply a 'schematizing interpretation' on the part of the Chronicler is argued by Kraus, op.cit., pp. 194, 197.

Now it is undoubtedly the case that in these instances the Deuteronomist was dependent on tradition. There is no explanation for cultic reforms being assigned to the reigns of Asa, Joash and Hezekiah unless it was handed down in the tradition that such reforms had in fact been carried out under these particular kings. This receives further support in that, in the cases of Asa and Joash, the Deuteronomist says that these kings did not remove the high places. But the fact that the Deuteronomist can still record his approval of them, even though the centralization of worship is his particular criterion of judgement on the individual kings,⁴⁵ is clear evidence that in the time of composition of these accounts there was a strong tradition, which the Deuteronomist could not ignore, that these kings had carried through reforms in the worship of the Jerusalem temple. Thus, for the pre-deuteronomic period in the Jerusalemite cult, there is evidence of the cultic theophany of Yahweh and of the proclamation of law in the sphere of worship.⁴⁶ Both of these point to the continued commemoration of the Sinai covenant in Judah, and this is supported by reference to the reforms of the cult carried out by three kings in the pre-deuteronomic period which were characterized by the rejection of the worship of foreign gods.

45 On this cf. E.W. Nicholson, Deuteronomy and Tradition, p. 28.

46 For this cf. also von Rad, "The City on the Hill", in The Problem of the Hexateuch and Other Essays, pp. 234f.

It is this characteristic which seems to have been a regular constituent of the festival of covenant renewal as practised at any rate in Shechem.

That the tradition of the Sinai covenant was preserved in the south is also supported from another quarter, which must now be discussed. This is the sphere of what is known as the prophetic Gerichtsrede. This is a specific form or Gattung of the prophetic literature which is presented as a divine lawsuit, or Rib, between Yahweh and Israel. In such a lawsuit Yahweh as plaintiff indicts Israel on the charge of sinning against him, and as judge pronounces her guilt and punishment.⁴⁷ This prophetic Gerichtsrede was first isolated by Gunkel who believed it to have been based upon ordinary profane law-court procedure in Israel.⁴⁸ That is to say, the form and terminology of the lawsuit were adopted by the prophets and employed by them to describe metaphorically Yahweh's Rib, or 'controversy', with his people. Since Gunkel's initial enquiry this Gerichtsrede has been the subject of considerable research, as a result of which more is now known about the form and its component parts.

47 It is also the case that on occasion Yahweh appears as the one accused by Israel, cf. Jer. 2: 4-13, 29-37; Mic. 6: 1-5 and below pp. 266f.

48 H. Gunkel, "Die Propheten als Schriftsteller und Dichter", in Die grossen Propheten, edit. H. Schmidt, 1923. Gunkel believed that this prophetic form influenced the psalms where it does not, however, appear in its pure form, but mixed with other Gattungen, cf. Gunkel-Begriff, op.cit., pp. 361ff.

In addition, it has been identified in other parts of the Old Testament outside the prophetic literature and the psalms,⁴⁹ and at the same time the question of the original Sitz im Leben of this divine lawsuit and the related problem of the period in which it evolved, have been much discussed.

The fundamental structure of this Rib-pattern,⁵⁰ as this can be discerned from Deut. 32: 1-25; Is. 1: 2-3, 10-20; Mic. 6: 1-8; Jer. 2: 2-37; Ps. 50 and other passages, is by no means a matter on which all scholars agree.

49 cf. G.E. Wright, "The Lawsuit of God: A Form-Critical Study of Deuteronomy 32", Israel's Prophetic Heritage, pp. 26ff; and Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch", Tradition und Situation (Weiser Festschrift), Göttingen 1963, pp. 1ff, who finds, against Noth, that the framework passages in the book of Judges, apart from 2: 11-19, go back to an oral form of preaching in the pre-monarchy covenant cult (though, for a criticism of Beyerlin's concordance studies and conclusions, cf. M. Weinfeld, "The Period of the Conquest and of the Judges as seen by the earlier and later sources", VT 17, 1967, pp. 108f), and that, especially with regard to 6: 7-10 and 10: 10b-15, they follow the form of the Rib as this can be determined from Deut. 32. On 1 Sam. 7 and 12, cf. Weiser, Samuel, Seine geschichtliche Aufgabe und religiöse Bedeutung, FRLANT 81, 1962, pp. 18ff, 82ff.

50 cf. Gunkel-Begriff, op.cit., pp. 364ff; H.B. Huffmon, "The Covenant Lawsuit in the Prophets", JBL 78, 1959, pp. 285f.; J. Harvey, "Le 'rib-pattern', requisitoire prophétique sur la rupture de l'alliance", Bib. 43, 1962, pp. 177f.

In fact, it seems that the reconstruction differs with each writer who approaches these texts with the presupposition of the existence of a Rib-pattern, and a form which is established for one text usually cannot be applied without changes or omissions to another. For example, Deut. 32 reveals the following form:⁵¹ (a) an introduction calling heaven and earth to witness the proceedings (vv. 1-3); (b) a general statement of the case and preliminary accusation (vv. 4-6); (c) a recital of the good deeds of Yahweh towards Israel (vv. 7-14); (d) the accusation (vv. 15-18);⁵² (e) the declaration of guilt and the threat of total destruction (vv. 19-29). If this is compared with Is. 1: 2-3 it will be seen that here the form goes from section (a) to section (c), while vv. 10-14, correspond to section (b), and v.15 corresponds to section

51 cf. Wright, "The Lawsuit of God", p.52; Harvey, op. cit., p.178; Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch", p.19. For the difference between this form and that proposed by Huffmon, cf. Wright, "The Lawsuit of God", pp. 43f.

52 Harvey argues, op.cit., p.178, that a reference to the uselessness of ritual compensation or of foreign cults is a constituent of this section, but cf. J.N.M. Wijngaards, The Formulas of the Deuteronomic Creed, Tilburg 1963, p.49 n.75.

(e) only in that it contains a threat.⁵³ When we turn to Mic 6, to be sure it begins by calling the mountains and hills as witnesses (vv. 1f.),⁵⁴ but what follows is fundamentally different from anything in either Deut. 32

53 Harvey, op.cit., pp. 177f, 186ff, distinguishes between a Rib which culminates in a declaration of guilt and threat of total destruction, and one which ends with a warning, fixing the conduct which Yahweh demands for the future. Is. 1 belongs to the latter category and so Harvey assigns vv. 16-20 to the final section. So here we have a deviation from the Deut. 32 form, of which Harvey finds other examples in Mic. 6 and Ps. 50. However, as we shall see, the last two passages exhibit other differences from the Deut. 32 form. Furthermore, it seems to me that, apart from the question of the Rib, there is as much justification in Is. 1 for taking vv. 4ff along with vv. 1-3 as there is for taking vv. 1-3 and 10-20 together. In the former case the point of the whole section would be to justify a present and actual state of disaster in the country. On the place of the chapter as a whole, cf. G. Fohrer, "Jesaja 1 als Zusammenfassung der Verkündigung Jesajas", ZAW 74, 1962, pp. 251-268; and L.G. Rignell, "Isaiah Chapter 1", St.Th. XI-XII, 1957-58, pp. 140-158, who argues for the unity of the chapter.

54 The role of the mountains and hills and other natural phenomena in these passages has been a matter of some dispute. It was argued by A. Bentzen, Introduction to the Old Testament, vol.1 (2nd edit.), Copenhagen 1952, pp. 199f, (following on Gunkel-Begrich, op.cit., p.364), that they are called as judges. Wright, on the other hand, The Old Testament against its Environment, p.36, followed by F.M. Cross, "The Council of Yahweh in Second Isaiah", JNES 12, 1953, p.275 n.3, argued that they must be understood as members of the divine assembly. But against this, cf. Huffmon, op.cit., p.291; Moran, "Some Remarks on the Song of Moses", Bib. 43, 1962, pp. 317ff; see also E. von

Note 54 continued

Waldow, Der traditionsgeschichtliche Hintergrund der prophetischen Gerichtsreden, BZAW 85, 1963, pp. 14ff, who concludes categorically that heaven and earth, or mountains and hills, were called as witnesses but were never judges; cf. also Wright, "The Lawsuit of God", pp. 44ff.

or Is. 1. Although there is an appeal to the past history of Yahweh's favourable dealings with Israel, the speech is not in the form of an accusation. Instead it is a speech of defence. Yahweh is here defending himself against Israel by asking 'what have I done to you?', and by bringing forward his past acts in support of his own position.⁵⁵ This clearly means that this passage cannot be classified along with the others under the general designation of Rib pattern, and thus when it comes to looking for the origin and Sitz im Leben of the various passages, it cannot immediately be presupposed that it is exactly the same for each individual case. An examination of Jer. 2 reveals that this chapter contains a mixture of styles. In vv. 1-3, Yahweh brings forward exonerating material on Israel's behalf,⁵⁶ which indicates that it is

55 cf. von Waldow, op.cit., pp. 8, 33, 40f; H.J. Boecker, "Anklagereden und Verteidigungsreden im A.T.", Ev. Theol. 20, 1960, pp. 410f. Boecker argues that in v.2 לָמַד does not mean accusation, but generally dispute at law, and that in v.3 וְאֵלֵינוּ should be translated 'bring witness against me', as in 1 Sam. 12: 3; 2 Sam. 1: 16; Nu. 35: 30.

56 cf. von Waldow, op.cit., p.32. The use of the verb נָדַח in Jer. 2: 2 and Mic. 6: 5 has been the subject of discussion. Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 70f, argues that, in the latter passage at least, it is a cultic technical term meaning the cultic 're-presentation' (Vergegenwärtigung) from generation to generation of the wonderful deeds of Yahweh in the framework of the covenant festival, as in Ps. 145: 7. However, against this, cf. Boecker, op.cit., p.412, who argues that it is a legal term used in the context of defence speeches. In Jer. 2 it means to 'point out' or 'make known', as in Gen. 40: 14. Boecker is followed by Childs, Memory and Tradition in Israel, pp. 32, 49f, 57; and cf. also Lohfink, Das Hauptgebot, Eine Untersuchung literarischer Einleitungsfragen zu Dtn. 5-11, Analecha 20, 1963, p.135.

Israel which is being accused. However, vv.5ff contain no accusation.⁵⁷ The opening question: 'what wrong did your fathers find in me that they went far from me?', reveals the style of speech adopted by one who has been wrongly accused and protests against the accusation.⁵⁸ Israel has forsaken its God in exchange for 'that which doesnot profit'; but this presupposes that Israel considered Yahweh to be a failure and so, in forsaking him, implicitly raised accusation against him.⁵⁹ It is this accusation which Yahweh seeks to counter, and supports his case by reference to his past dealings with his people. But, in accordance with the style of defence speeches as they are known from ordinary law-court procedure,⁶⁰ the speech does not continue in the defence style, but runs over into a counter-accusation in vv. 9ff. Israel now becomes the accused and the accuser is Yahweh.

57 so against Harvey, *op.cit.* p.178

58 cf. Boecker, *op.cit.*, pp. 405f; von Waldow, *op.cit.*, pp. 5, 8, who quote passages such as Gen. 31: 36 and 1 Sam. 20: 1.

59 cf. von Waldow, *op.cit.*, pp. 39f.

60 cf. Jer. 26: 11ff; 1 Kings 3: 22, and Boecker, *op.cit.*, pp. 404f.

The last passage we will look at here is Ps. 50. It poses problems different from those of the foregoing passages. The introduction in which God summons heaven and earth to witness the judgement of his people is certainly present (vv. 1-7b), corresponding to section (a) of the form of Deut. 32. But section (b) is missing,⁶¹ and also section (c). The rest of the psalm consists of: 1, a speech of rebuke, reminiscent of similar prophetic addresses,⁶² and comprising a denunciation of the attitude of the people towards sacrifice⁶³ (vv. 7c-15), and a further denunciation of those who recite the divine statutes but fail to put them into practice in their daily lives (vv. 16-21); and 2, a final warning and promise which firmly binds the

- 61 It seems doubtful to me that v.16b can be assigned to this place, as Harvey, op.cit., p.178, thinks. In this psalm Harvey finds a mixture of the two types of Rib which he distinguishes (cf. above n.53). To the condemning Rib are assigned vv. 1-7b, 16b, 17-20, 21, 22-23; and to the warning Rib, vv. 7c, 8-13, 14-15 (cf. also ibid., p.188 n.3). But such a form-critical division of the text presupposes the established existence of these two types of Rib, and this cannot in fact be maintained on the basis of the texts we have dealt with and which Harvey uses, since these, as we have seen, reveal fundamental differences. On the basic unity of the psalm, cf. n.64
- 62 In addition to n.31 above, cf. W.R. Taylor (and W.S. McCullough), "The Psalms", IB 4, 1955, pp. 260f; F. Hesse, "Wurzelt die prophetische Gerichtsrede im israelitischen Kult?", ZAW 24, 1953, p.47; but cf. also Weiser, The Psalms, pp. 393f.
- 63 cf. Weiser, op.cit., p.396; Rowley, The Unity of the Bible, London 1953, p.50 n.3.

whole psalm together.⁶⁴

Even this short outline of passages which are generally assigned to the Gattung of the Gerichtsrede shows that in this connection it is dangerous and misleading to think of only one Gattung, and to lump all the different passages together in that category.⁶⁵ This is because such a procedure fails to recognize the rich diversity of forms used by the prophets in this connection and also because it may lead to theories concerning the original Sitz im Leben of the forms used which may later prove to be unfounded.

It was noted earlier that Gunkel believed that these prophetic forms derived simply from the profane judicial sphere.⁶⁶

64 cf. v.22 'you who forget God', referring to the wicked of vv. 16ff; and v.23 'he who brings thanksgiving as his sacrifice honours me; to him who orders his way aright I will show the salvation of God', which refers back to both sections of the rebuke in vv. 8ff, 16ff. The fundamental unity of the psalm is emphasized by Weiser, op.cit., pp. 395f.

65 It is true that Wright, op.cit., pp. 40, 66, considers that Deut. 32 is a 'broken rib', that is, it has been 'adapted and expanded by other themes to serve a more generalized purpose in confession and praise', but this does not affect what has been said above, since, no matter which passage is taken as illustrating the Rib pattern, the differences in other passages already noted make it clear that not all the passages can be included in the one category.

66 cf. above p.261. This was argued also by, e.g. Koehler, Deuteriojesaja stilistisch untersucht, BZAW 37, 1923, pp. 110ff; cf. also Begrich, Studien zur Deuteriojesaja, BWANT IV, 25, 1938, pp. 19ff; while the main proponents of this view now are H.J. Boecker, Redeformen des Rechtslebens im Alten Testament, WMANT 14, 1964; and von Waldow, op.cit.

This view was, however, strongly opposed by Würthwein⁶⁷ who, arguing in terms of one particular Rib form consisting of an introductory proclamation that Yahweh has a Rib⁶⁸ and Yahweh's coming forth ל'גז,⁶⁹ followed by the accusation itself, considered that the argument and counter-argument of the profane legal proceedings do not suit what the prophets have to express.⁷⁰ The institutional aspect of the prophetic office is stressed by Würthwein, and this he finds to be supported by the widespread use of the Gerichtsrede by the prophets. The content of their accusation can be the neglect of the commands of the decalogue, as in Hos. 4: 2, or other offences, as in Mal. 3: 5, or the social crimes of the rulers, as in Is. 3: 13f, or even ingratitude in the face of Yahweh's past beneficent dealings with his people, as in Mic. 6: 1ff and Jer. 2: 5ff. In short, the accusation of the prophets presupposes the covenant relationship between Yahweh and Israel, in that it is against Yahweh's will, expressed in the cultic declaration of his commandments, that Israel rebels.⁷¹

67 E. Würthwein, "Der Ursprung der prophetischen Gerichtsrede", ZThK 49, 1952, pp. 1-16.

68 Hos. 4: 1; 12: 3; Mic. 6: 2; Jer. 25: 31.

69 Is. 3: 13

70 Würthwein, op.cit., p.7.

71 *ibid.*, pp. 8, 12.

So it is the covenant faith which forms the spiritual background of the prophetic Gerichtsrede. Turning then to the Psalter, Würthwein points to the enthronement psalms where it is often said that Yahweh comes in a 'judging' capacity. Here, Pss. 96: 11-13; 98: 7-9 are particularly relevant, while other passages such as Pss. 75 and 76: 8-10, and especially Pss. 50: 1-7; 82, are also important.⁷² From these Würthwein concludes that Yahweh's coming as judge of both the nations and Israel itself was a familiar feature of the Israelite cult,⁷³ and indeed this conclusion is a natural one. For if, as is most probable, there was a cultic proclamation of the divine law, then it is also probable that Israel was tested according to the standards set by this law unless, that is, the reading of the divine law was a mere formality.⁷⁴ Those responsible for raising the accusation against Israel on Yahweh's behalf must have been the cult prophets.⁷⁵ So, on the one hand, there are the prophetic Gerichtsreden which are based on the covenant faith, and on the other hand there are the Gerichtsreden of the psalms, which are not to be ascribed to prophetic influence, but which reflect a process carried out in the context of Israel's covenant faith.

72 *ibid.* pp. 10f, 13

73 *ibid.*, pp. 14f.

74 *ibid.*, p.12

75 *ibid.*, p.15. In this Würthwein seems to have renounced his earlier view, "Amos-Studien", p.26, that the cult prophets preached salvation, in distinction to the 'classical' prophets who preached damnation.

The logical conclusion then is that both the prophetic Gerichtsreden and those of the psalms have their original Sitz im Leben in the Israelite cult.⁷⁶

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- 76 ibid. p.15. This derivation of the prophetic Gerichtsrede from the cult has been disputed by Hesse, op.cit., pp. 46f, who argues that, with the possible exception of Ps. 50, the psalms brought forward by Würthwein do not speak of the judgement of Yahweh on Israel, but on the nations (no reliance can be placed on Ps. 82 since its interpretation is so uncertain. For a discussion, citing the relevant literature, cf. Wright, The Old Testament against its Environment, pp. 30ff). On the other hand, the thought of Ps. 50, which is admittedly not radically anti-cultic, is so similar to that of the classical prophets, that Hesse thinks that it must be dependent on these. Furthermore (ibid., pp. 51ff) the fact that the reading of the law took place in a cultic context does not necessarily mean that Israel was judged in the cult according to this law. In fact, it is evident from the dispute between Jeremiah and his opponents that the cult prophets did not carry out the function which is ascribed to them by Würthwein. Instead, they preached the salvation (יִשְׁעוֹ) of Israel, and the judgement of Yahweh on the nations. It is from this contrast between the cult (salvation) prophets and the classical (condemnation) prophets that the words of Is. 3: 13; Zeph. 1: 2ff, 4ff; Amos 1: 3-2: 16; Mic. 1: 1ff, are properly to be understood (ibid., pp. 48f); for here these prophets start off in the popular style of the cult prophets by denouncing the nations, and thus engage the attention of their hearers. The subsequent sudden shift to a denunciation of Israel meant that their message would be all the more effective. Thus Hesse's view consists basically of just a re-affirmation of the older idea that the cult prophets proclaimed salvation for Israel, while the classical prophets strongly opposed them in preaching Yahweh's judgement on his people; cf. also von Rad, "Die falschen Propheten", ZAW 51, 1933, pp. 109ff). However, this contrast is now recognised to be too simple and general, cf. Lindblom, Prophecy in Ancient Israel, pp. 210ff; Clements, Prophecy and Covenant, pp. 34f, 127f; and, furthermore, it does scant justice to Israelite cultic worship.

In the time that Würthwein published his work he did not have at his disposal the results achieved by Mendenhall and Baltzer on the form of the covenant between Yahweh and Israel.⁷⁷ It is this covenant form which has been used by Wright and Beyerlin⁷⁸ in order to try and make even more concrete the relationship between the Gerichtsrede and Israel's covenant faith. What is now argued is that the Rib does not just presuppose the existence of a covenant relationship between Yahweh and Israel, but that the actual form of the Rib corresponds to and is based on that of the covenant. While Wright is rather uncertain, however, that the lawsuit, in which Israel stood accused before Yahweh, had a liturgical setting,⁷⁹ Beyerlin, on the other

77 Mendenhall, "Covenant Forms in Israelite Tradition"; Baltzer, Das Bundesformular. For the Shechemite covenant in this connection, cf. last chapter; for the Sinai covenant, cf. below, pp. 355ff.

78 Wright, "The Lawsuit of God"; Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch".

79 "The Lawsuit of God", pp. 53, 59ff. Wright refuses Würthwein's proposals on the ground that the enthronement psalms have quite a different Sitz im Leben from the Gerichtsrede (cf. *ibid.*, p.59 n.64). However, while admitting that the Rib may have been used in a penitential liturgy, he sees it as a reformulation of the covenant theme undertaken by the prophets of northern Israel between the 9th and 8th centuries B.C. 'without the prophetic office no rib would have been announced in Israel' (*ibid.* p.62, cf. p.64).

hand, is emphatic in his contention that the Rib belongs in an amphictyonic festival of penitence and fasting, such as is attested in Judg. 20: 26; 21: 2ff; and 1 Sam. 7: 3ff.⁸⁰

80 "Gattung und Herkunft des Rahmens im Richterbuch", pp. 27f. This is taken to be the Sitz im Leben of the Rib in Judg. 10; 11b-14 (though cf. the general objections of Rost, "Das kleine geschichtliche Credo", in Das kleine Credo und andere Studien zum Alten Testament, Heidelberg 1965, p.23 n.8a). Thus Beyerlin, in contrast to Wright, is not only more certain of the cultic setting of the Rib, but also argues that it was in use in the pre-monarchy period. Furthermore, although the Rib is used frequently by the 8th century prophets, it does not necessarily follow that it was created by them (ibid., pp. 21f). In fact there is evidence to show that this form was already in use outside Israel, corresponding closely to the treaty form used by the Hittites and adopted by Israel. In both the Rib and the treaty, heaven and earth are called as witnesses. In the Rib reference is made to the breaking of the covenant in spite of the past good deeds of the suzerain, and it is precisely an account of these beneficent acts of the suzerain (the historical prologue) which is given in the treaty as the reason and basis of the demand for fidelity to the treaty stipulations. Thus the Rib announces either the imposition of the sanctions threatened in the treaty or demands the re-establishment of the broken treaty relation (ibid., pp. 18f). In this view, Beyerlin relies to a large extent on an article by Harvey (for which cf. above n.50), who points (ibid., pp. 179ff) to a number of questions which the Rib form raises: the messenger style, the lack of distinction between judge and prosecutor (cf. further below, pp.28ff), the fact that in some cases the Rib ends in a warning and not a condemnation, and others. He concludes that the original context of the Rib is one where the messenger style would be original, where the reference to the previous relations of the parties would also be in place and where the whole lawsuit could be one of

Note 80 continued

warning rather than condemnation. This leads Harvey to the view that the origin of the Gattung is to be sought in the same context as the treaty form, in which context the Rib of condemnation would be the suzerain's declaration of war against the vassal, while the Rib of warning would represent an ultimatum to the vassal who has neglected the treaty stipulations. Harvey finds an example of the Rib of condemnation in the Tukulti-Ninurta epic, coming from about the end of 13th cent. B.C., and an example of the warning Rib from Mari in a despatch from the king Yarim-Lim of Aleppo to Yašub-Yahad, king of Dir, which is about 500 years older than the other. It is from this context that Israel took over the Rib pattern which was used on days of fasting when Israel urgently awaited an oracle of Yahweh in the face of the great danger which threatened as the result of breach of covenant (ibid., pp. 194f). For a criticism of some points of Harvey's view, cf. Moran, "Some Remarks on the Song of Moses," p. 318 n. 4; and, in a more general way, Fensham, "Common Trends in Curses of the Near Eastern Treaties and Kudurru Inscriptions compared with the Maledictions of Amos and Isaiah", ZAW 75, 1963, pp. 174f; cf. also Clements, Prophecy and Covenant, p. 78 n. 2; Reventlow, "Kultisches Recht im A.T." ZThK 60, 1963, p. 298.

It seems that the most cogent objection which can be brought against these views, especially those of Würthwein and Beyerlin, is what has already been indicated: namely, that they involve classifying together as a single type passages which, though related, show fundamental differences. These differences make it impossible to derive all the passages from the cultic context which Würthwein and Beyerlin propose. For, although it is credible that there were occasions in cultic worship when the people, in the face of great danger, were confronted with the accusation by Yahweh of breach of covenant as the reason for the approaching destruction, as a result of which they engaged in penitence and fasting,⁸¹ no such cultic occasion can be asserted as the original Sitz im Leben of those forms in which Israel is the accuser and Yahweh the accused.⁸² This leaves the possibility open that the accusation speeches do originally belong to the cult, but that when they were taken over by the prophets they were sometimes changed. But the difficulty here is that no immediate reason can be given for such a change. Or it could perhaps be argued that the accusation form derives from the cult, but the form in which Yahweh appears as defendant comes from a different sphere. However, in this case the difficulty is that both the form in which Yahweh is the accused and the form in which he is the accuser show too many

81 On this cf. Baltzer, Das Bundesformular, pp. 64ff.

82 On Mic. 6 and Jer. 2 cf. above pp. 264ff.

similarities for them to be derived from totally different spheres. For example, in both heaven and earth are called as witnesses,⁸³ and both have the same legal atmosphere. But if this is the case, then it seems that the best course to adopt, the course which resolves most of the difficulties inherent in this question, is to examine the forms of the Rib as they are used in the psalms and prophetic literature against the background of the procedures of the ordinary civil courts.⁸⁴ That is to say, the ultimate origin of the forms of speech used to express the accusation of Israel by Yahweh and Israel's accusation of Yahweh is to be found in the forms of speech used in the daily administration of justice in Israel. It is this background which is specific enough to account for the widespread use of the same kind of speech at different periods, in different circumstances, by different people and for different purposes, and yet which is broad enough to include within its scope both the Rib of accusation and the Rib of defence. There were, of course, other influences which affected the forms when they were taken from their original setting, and to these we shall refer shortly; but these do not conceal the origin of these forms.

83 cf. Deut. 32: 1; Mic. 6: 1f.

84 cf. especially, Boecker, Redeformen des Rechtslebens im Alten Testament.

Some reference has already been made to the parallels between the prophetic Rib speeches and the speeches which formed part of the normal legal processes in Israel.⁸⁵ The sources available for a reconstruction of these processes are scanty enough, but something can be discerned from 1 Kings 3, the wise decision of Solomon, 1 Kings 21, the trial of Naboth, and Jer. 26, the accusation against Jeremiah for his speech against Jerusalem and the temple, while supplementary evidence can be gleaned from other texts.⁸⁶ Naturally, all these passages present their own problems,⁸⁷ but a few interesting points of procedure, which are of direct relevance here, may be established with more or less certainty. In the first place, the court was not the place where one person first accused another and where a defence was made. These preliminary proceedings took place before any court action was initiated, and they differ from the court proceedings in at least one important respect: before the court the speech of the plaintiff is, to begin with, invariably addressed to the court and the accused is spoken of in 3rd person,⁸⁸ though at a subsequent

85 cf. above notes, 55, 56 and 58. For the vocabulary of the Rib reference should be made particularly to B. Gemser, "The Rib- or Controversy-Pattern in Hebrew Mentality", VT Suppl. 3, 1955, pp. 120-137.

86 cf. e.g., Gen. 31: 36f; Judg. 11: 12ff; 1 Sam. 24: 10ff. On 'justice in the gate', cf. L. Koehler, Hebrew Man, Appendix, pp. 149-175.

87 For what follows, cf. the publications of Boecker and von Waldow (above, notes 54, 55 and 66); and C. Westermann, Grundformen prophetischer Rede, München 1960, pp. 97f.

88 cf. 1 Kings 3: 17ff; 21: 13; Jer. 26: 11.

stage it can turn into direct accusation.⁸⁹ In the preliminary stage, however, before the case was brought to court, the accusation is directly addressed to the defendant.⁹⁰ Combined with the accusation is also a proposal of punishment,⁹¹ and the prosecutor also looks for witnesses in support of his case⁹². The speeches by the defendant are normally addressed directly to the other party,⁹³ both before and during the court proceedings. At court, the defence may be of two kinds: the accused may be defended by another,⁹⁴ or he defends himself.

89 cf. 1 Kings 3: 22

90 cf. Jer. 26: 8f

91 cf. Jer. 26: 11

92 cf. 'as you have heard with your own ears' in Jer. 26: 11. In 1 Kings 21, it is two 'sons of Belial' who both accuse and witness. The number two is important, for that is the minimum prescribed by Nu. 35: 30; Deut. 17: 16, 19: 15. The nature of the case in 1 Kings 3 means that there can be no witnesses.

93 However, in spite of von Waldow, op.cit., p.8, all of Jer. 26: 12-15 seems better understood as addressed to the court, and I cannot see how Boecker, "Anklagereden und Verteidigungsreden im A.T.", p.404, works out from this passage that the accused addresses the court, but in the course of his speech turns to the plaintiff.

94 cf. Jer. 26: 17-19. Boecker, op.cit., p.404 n.14, argues that these verses belong before v.16 which constitutes the judgement of the court and so should close the proceedings.

In the latter case, the defendant can ask what he has done wrong,⁹⁵ or he can bring forward extenuating circumstances or the reason for his action,⁹⁶ or he can confront his accuser with a flat contradiction and counter-accusation.⁹⁷ Finally, the proceedings are brought to a close and the decision given in the speech of the judge.

Now, the correspondences between what can be thus re-constructed of the ordinary civil court processes, and the Rib speeches of the prophets are too many and close to be ignored. In the first place, there is the summoning of witnesses,⁹⁸ and, secondly, in the accusation Israel is spoken of in 3rd person,⁹⁹ which in the course of the speech can also change to direct address.¹⁰⁰ On the other hand, the Rib speeches in Jer. 2 are to be seen in the light of the speeches of the defendant at the court of law. Jer. 2: 2f appears to be best understood as a defence speech made by Yahweh on Israel's behalf, while in vv. 5ff Yahweh is defending himself against an accusation made by Israel. Here are the typical signs of an ordinary, legal defence speech. Yahweh asks after the actual crime he has committed, and feels himself wrongly accused. Then in the course of his speech, his defence

95 cf. Gen. 31: 36; 1 Sam. 20: 1

96 cf. Jer. 26: 12ff: 'Yahweh sent me'

97 cf. 1 Kings 3: 22

98 cf. Deut. 32: 1; Is. 1: 2 etc.

99 Ps. 50 forms an exception to this.

100 So in Is: 5ff, 10ff.

takes the form of a counter-accusation (vv. 9ff) in which Israel is spoken of in 3rd person. Similarly, in Mic. 6: 3-5 Yahweh is the defendant who asks after his crime and considers the accusation groundless. Thus it seems clear that the general background of these prophetic speeches, and the sphere from which they derived the forms they used, is the ordinary, every-day legal procedure in Israel.

But just to claim this is not enough. For these forms would not have been taken over unless there were traditions and ideas which the prophets felt could best be expressed by using the forms. And, furthermore, there are a number of indications that one tradition in particular, that of the covenant relation between Yahweh and Israel, exercised a decisive influence on how these legal forms were employed by the prophets.

Important in this connection is the question of the identity of the judge in the prophetic Rib speeches.¹⁰¹ Some passages may give rise to the view that heaven and earth, or mountains and hills fulfil this function,¹⁰² but it is probably best that these elements should be understood as witnesses,¹⁰³ and this is confirmed by the

101 cf. von Waldow, op.cit., pp. 8f, 13ff; Boecker, "Anklagereden und Verteidigungsreden im A.T.", pp. 406ff; Gemser, op.cit., p.125

102 cf. Is. 1.2; Mic. 6: 1; Jer.2: 12.

103 cf. above n. 54.

strong impression given in other passages that it is Yahweh himself who is judge. This is the case in Hos. 4: 1ff.¹⁰⁴ To begin with Yahweh is introduced as one of the parties to the case;¹⁰⁵ but in what follows Yahweh gives his judgement on the case: 'there is no faithfulness or kindness....'; and next the consequences of this judgement are fixed: 'therefore ($\text{לְכֹל־עֲוֹנוֹתֵיכֶם}$) the land shall mourn....'. Again, in Jer. 2: 1-3 where Yahweh brings forward exonerating material on Israel's behalf, and thus acts as defence, it is clear that he is presupposed here also as the judge of the case.¹⁰⁶ Finally, in Is. 3: 13ff Yahweh appears to occupy the dual role of accuser and judge.¹⁰⁷ So in the prophetic Rib speeches Yahweh can appear as defendant and judge or as accuser and judge. This amalgamation of two roles clearly represents a departure from normal judicial practice.¹⁰⁸

104 cf. H.W. Wolff, Hosea, BKAT XIV/I, 1957, pp. 81ff; Boecker, Redeformen des Rechtslebens im A.T. pp.152f.

105 $\text{יְהוָה אֱלֹהֵינוּ יוֹשֵׁב הַקֶּרֶן$ cf, also Mic.6: 2; Jer.2: 9.

106 This is clear in the use of the Qal of the verb בָּרַךְ in v.2. If Yahweh was pleading Israel's case before an independent third party the Hiphil, בָּרַכְתִּי , 'I bring to notice', would most likely have been used.

107 In v.13, וְיָדָע should probably be read, instead of וְיָדָע with LXX, Syr. cf. also v.14.

108 cf. von Waldow, op.cit., p.18 referring to Ruth 4: 1ff. I am inclined to agree with von Waldow, op.cit., p.18 n.16, against Boecker, "Anklagereden und Verteidigungsreden im A.T.", p.408, that 1 Sam. 22: 6-19 does not represent normal legal procedure, and so cannot be used to support the view that this prophetic identification of functions was also derived from the legal sphere. The case was one of high treason, and it is unlikely that the office of state solicitor

Note 108 continued

existed apart from the crown. Thus, in this case, and only in such a case, it is natural that Saul should act as both accuser and judge.

So it is also clear that by pointing to the sphere of Israelite legal practice not everything has been said in the elucidation of the problem of the origin of the prophetic Rib speeches. There were other forces which influenced the content and, at least in one instance, changed the form of the legal forms which the prophets adopted. This is also indicated by the appeal to heaven and earth, or mountains and hills, to witness the proceedings. To be sure, witnesses were a necessary part of ordinary court procedure, but that these cosmic elements and natural features should be summoned to fill this role is something which requires explanation.

It is at this point that form criticism must give way to tradition history. It is the tradition which has given the prophets the substance which they incorporated into the legal forms. Furthermore, and more specifically, it must have been a tradition which was amenable to such incorporation. On the one hand there are the legal forms, but on the other there is the content of these forms when employed by the prophets: heaven and earth, mountain and hills, as witnesses; Yahweh as both accuser and judge, or as defendant and judge; the particular kind of historical material which Yahweh brings forward in either an accusing or an exonerating function;¹⁰⁹ and also the

109 cf. Mic. 6: 4f; Jer. 2: 6f.

specific points on which Israel is accused.

Würthwein has already pointed to the close connection between the prophetic Rib speeches and the covenant idea.¹¹⁰ If accusation can be raised by Yahweh against Israel, then it is presupposed that Israel has taken on legal obligations towards Yahweh, for only where there is an obligation can there be an accusation. Thus in the accusing Rib speeches, when the prophets in the name of Yahweh indict Israel, they presuppose obligations, known to their listeners, which Israel has accepted as defining and regulating its covenant relationship with Yahweh. This is not to say that the prophets appeal exclusively to a particular form of law as this was proclaimed ceremonially at the covenant festival for they undoubtedly also remind Israel of its social obligations and responsibilities in the sphere of secular law.¹¹¹

110 Würthwein, op.cit., pp. 7f.

111 An attempt has been made by R. Bach, "Gottes Recht und weltliches Recht in der Verkündigung des Propheten Amos", in Günther Dehn Festschrift, Neukirchen 1957, pp. 23ff, to show, on the basis of Amos 2: 6ff; 3: 9: 4: 1; 5: 7, 11; 6: 12; 8: 4, 6, that Amos refers only to the demands of the ancient sacral law, that is the apodictic law, in his accusations against Israel; cf. also Würthwein, "Amos-Studien", pp. 40ff. But this is not convincing in view of the parallels which can be drawn between accusations of Amos and prescriptions of casuistic law in the Book of the Covenant, cf. Clements, Prophecy and Covenant, p. 76 n.2. For the legal traditions appealed to by Isaiah and Micah, cf. H. Cazelles, Études sur le code de l'alliance, pp. 170f; N.W. Porteous, "Actualization and the Prophetic Criticism of the Cult", p.101; Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 42ff, 49ff; and in the case of Ezekiel, cf. Zimmerli, "Die Eigenart der prophetischen Rede des Ezechiel" in Gottes Offenbarung, München 1963, pp. 148ff.

That it was covenant law to which the prophets often appealed, however, is clear from the contexts in which their accusations are sometimes to be found,¹¹² that is, the context of the Rib.

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- 112 Thus we strongly disagree with Gerstenberger, Wesen und Herkunft des 'apodiktischen Rechts', WMANT 30, 1965, p.107 n.5, when he says that, for example, Isaiah appeals to popular, ethical regulations and not to divine, revealed law, and that first in a few sections of the book of Jeremiah do covenant and (social) law begin to come together. This seems to me to involve a much too narrow and restricted understanding of the covenant. That the 12 (or perhaps only 10, cf. below n.143) curses of Deut. 27: 15ff are very ancient and reflect an ancient cult-ritual act can scarcely be doubted, in spite of G. Fohrer, "Das sogenannte apodiktisch formulierte Recht und der Dekalog", Kerygma und Dogma 11, 1965, pp. 72f. The latter argues that this series of curses was formulated in the time of the deuteronomist for an imaginary cultic act and not one really carried out. Against this, cf. B. Luther, in Meyer, Die Israeliten und ihre Nachbarstämme, Darmstadt 1967, pp. 551f; Kraus, Worship in Israel, pp. 141ff; Zimmerli, The Law and the Prophets, pp. 55f. Yet clear parallels can be drawn between words of Isaiah and some of these curses: compare Deut. 27: 15 and Is. 2: 8, 20; Deut. 27: 16 and Is. 3: 5, 12; Deut. 27: 19 and Is. 1: 17, 23; 10: 1-2; Deut. 27: 25 and Is. 1: 21ff; cf. J.H. Otwell, A New Approach to the Old Testament, London 1967, p.89. Gerstenberger's view goes back to his article "The Woe-Oracles of the Prophets", JBL 81, 1962, pp. 249-263, where he sought to show (cf. especially, pp. 255ff, 285ff) that the woe form was taken up by the prophets from the same stratum of popular ethos as wisdom. The woe form originated as 'the wise man's reflections about the conditions of this

Note 112 continued

world' (p.261). This may indeed be the ultimate origin of the form in question, but that does not really say anything about the Sitz im Leben of the laws presupposed by the use of this form in the time of the prophets. Gerstenberger (p.259) admits the cultic use of Deut. 27, but says it is largely based on the basic rules of the popular ethos. Again, this may be true, but that does not rule out the cultic use of the Deut. 27 curses well before the time of the prophets. On Gerstenberger's views, cf. further below, pp. 315ff.

For we have already noted that the appeal to heaven and earth, mountains and hills, to witness the proceedings here plays a prominent role, and yet, as we saw in the last chapter, it is precisely in the context of the Hittite treaties, the suzerainty form of which Israel appears to have taken over and adopted to its own use, that these elements are brought in. Among the gods and goddesses of the lands concerned in both the suzerainty and parity treaties, there are also references to heaven and earth, mountains and hills. Thus, it is most probable that this is where the origin of the summoning of these elements in the Rib speeches should be sought. However, the gods were not only witnesses to the treaties. They were also guarantors, who would judge and punish infidelity to the treaty stipulations.¹¹³ But obviously this idea could not survive in Israel. The treaty had now become a covenant between Yahweh and Israel, in which Israel was bound to Yahweh alone. The very nature of the case made quite impossible the invocation of other gods either as witnesses or as judges. So it is, that in the covenant between Yahweh and Israel, Yahweh is not only a party to it, but also assumes the role of judge. There was no other independent party, who, in the Rib speeches, could be called as judge before whom the accusation could be made. And the third and final point in which the Rib speeches show the influence of the covenant theme is in the historical material used in the defence speeches of Yahweh in Mic. 6: 4f; Jer. 2: 6f.

113 cf. McCarthy, Treaty and Covenant, pp. 92ff.

This historical material is in fact the Heilsgeschichte which was used as a 'historical prologue' in the covenant making ceremony when Israel took on its obligations.¹¹⁴

These three points clearly indicate that the Rib speeches of the prophets are based on and presuppose the existence of a covenant between Yahweh and Israel in which Yahweh was both a party and guarantor, in which mountains and hills, heaven and earth, were called as witnesses and in which the Heilsgeschichte played an important part.

114 von Waldow, op.cit., pp. 33ff, asks after a tradition, connected with the covenant theme, which could supply to the prophets the idea of representing Yahweh as defendant in a lawsuit brought by Israel. He finds this tradition in the 'murmuring of the people' which forms part of the Pentateuchal theme 'leading in the wilderness', and tells of the revolt of the people against Yahweh. However, it seems unnecessary that we should go as far as this. It was mentioned in the last chapter that the probable reason for the few references to the covenant in the 8th century prophets is that this concept had taken on aspects abhorrent to the prophetic way of thinking, that is, the covenant came to be looked upon as a treaty in which God was also put under obligations, and thus could, at least theoretically, be accused of breach of treaty. This could provide the ideal background for the Rib speeches of Mic. 6: 3ff; and Jer. 2: 5ff, in which Yahweh speaks in the first instance as defendant but then, in the course of the historical recital, shows that there is in fact far more reason for the accusation being directed against Israel.

And this presupposed covenant shows definite contacts with the Hittite treaty form which we earlier found to have influenced the Shechem covenant recorded in Josh. 24.

Thus, by a variety of routes we are brought to the conclusion that the Sinai covenant continued to be remembered and celebrated in Judah alongside the Davidic covenant. It cannot be held that the Sinai covenant tradition was celebrated exclusively in the north. There is the evidence of the psalms and of the prophets which show traces of the theophany which was characteristic of Sinai, and of the proclamation of law which also belongs to the Sinai covenant, and particularly there is the evidence of the prophetic Rib speeches, especially in Isaiah, Micah and Jeremiah, all of which reveals that, in pre-Josianic days, the Sinai tradition, together with that of the Exodus, was far from having been confined to northern Israel, but that it was a living force in the south alongside the Davidic covenant tradition.¹¹⁵

It is in the fact that both the northern and southern parts of Israel acknowledged these traditions as basic to their faith, that the unity of Israel lies, and it is because of this acknowledgement that the two kingdoms could be taken together and addressed as 'Israel'.

115 On the subject of the relationship of the Davidic and Sinaitic covenants, cf. Additional Note I to Chapter 3, below, pp. 386ff.

So we turn now to a consideration of this covenant made on Sinai and then attempt to indicate how it was that 'Israel', in spite of its practical disunity in the post-settlement period, can still show a basic unity in its faith.

(b) The Covenant on Sinai

The chapters dealing with Sinai, Ex. 19-34, have been the subject of a mass of literature, especially as the result of the work of Mowinckel, von Rad and Noth. It is not our intention here to go into the details of the literary criticism of these chapters, since this has already been done,¹¹⁶ and it seems doubtful whether a further fresh examination from this point of view would lead to significantly new results. So, for our purpose, it is sufficient to note some general characteristics of these chapters. After the P elements have been subtracted,¹¹⁷ there remains the JE account of the Sinai event into which some additions have been introduced. The literary criticism of the chapters may be an obscure and uncertain question, but there can hardly be any doubt that, in its present form, the JE Sinai account bears some relation to a cultic ceremony.

116 cf. particularly Noth, Überlieferungsgeschichte des Pentateuch, pp. 18, 33, 39; Beyerlin, Origins and History of the Oldest Sinaitic Traditions, pp. 1-26, and also the standard commentaries and introductions.

117 P is to be seen mainly in Ex. 25-31 and in Ex. 19: 1-2a.

The general outline of the account, with its parenthetic elements, reading of the law, promise of blessing and covenant making, is closely related to the outline of Deuteronomy.¹¹⁸ This is not to say, however, that the chapters are a bare description of a cultic ceremony,¹¹⁹ for, for one thing, no literary criticism has yet yielded a satisfactory J or E narrative which could reasonably be taken as the description of such a ceremony. It seems more likely that while the course of a covenant ceremony may have served as a general framework, the authors have taken up into this framework a variety of unconnected units, which themselves were rooted in the cult, and welded them together in the attempt to form a coherent narrative.¹²⁰ This clearly presents great difficulties when it comes to reconstructing the original Sinai event, for nowhere in the

118 cf. von Rad, The Problem of the Hexateuch, pp. 26ff.

119 This was the position of Mowinckel, Le décalogue, pp. 117ff, who argued that what J and E tell of the events at Sinai is simply the description of a cultic festival (the New Year Festival) celebrated at a later time in the Jerusalem temple. However, for a correction of the possible implication here that the narrative is wholly derived from the cult, cf. von Rad, The Problem of the Hexateuch, pp. 21f; Newman, The People of the Covenant, pp. 19, 52ff; and the general considerations of Wright, "Cult and History", Interpretation, XVI 1962, pp. 13f.

120 It is the aim of Beyerlin, Sinaitic Traditions to investigate the origin and growth of these units.

JE narrative can it be said that we have a contemporary report of the events by an eyewitness. The cultic transmission of the records has involved a long process of reshaping and change which means that only in a general way can anything be said about the event which gave rise to the traditions about it.¹²¹ Yet, even if reconstruction in detail is impossible, it can be said with assurance that at Sinai a group of semi-nomads, whose descendants later formed part of the people Israel, experienced a revelation of Yahweh, and that thereafter they considered themselves as standing in a relationship with this God, which they called a covenant. A concomitant of this position was that this group was bound to live in accordance with the demands of the relationship into which it had entered.¹²²

121 Even in what is generally taken to be the most ancient unit of the Sinai pericope, Ex. 24: 1a, 9-11 (though Nielsen, Die Zehn Gebote. Eine traditions-geschichtliche Skizze, Kopenhagen 1965, p.62 and n.38, seems sceptical of this division), Beyerlin, Sinaitic Traditions, pp. 27ff., has pointed out the elements which derive from the cult.

122 This understanding is not excluded even for Ex. 24: 1a, 9-11, where nothing is said of a proclamation of the divine will. However, eating and drinking together, in such a context, clearly means the taking on of an obligation to act in a manner compatible with the relationship which is thereby established, cf. Gerstenberger, Wesen und Herkunft des "apodiktischen Rechts", p.95. In a rather similar way, Würthwein, "Der Sinn des Gesetzes im A.T.", ZThK 55, 1958, p.266, understood that the starting point for the connection of covenant with law was to be found in $\gamma\delta\pi$ which may be understood as 'community faith', i.e. $\gamma\delta\pi$ was the norm according to which those united in a covenant were expected to behave. However, as we shall try

Note 122 continued

to show below, even though these views are correct, the obligations of the covenant between Yahweh and Israel were most probably clearly defined in some form from the very beginning.

That these demands were explicitly formulated from the beginning on is, of course, a separate question.

There is no lack of law in the Sinai pericope, even after the P sections have been omitted, but the difficulty lies in tracing any of it back to the Mosaic period.¹²³ A high proportion of this law can be shown to have originated, or at least to have been adopted by Israel, in the post-conquest period, and it was undoubtedly considered in the later period that by ascribing it to Moses it was endowed with unassailable authority.¹²⁴ But in spite of the difficulty the balance of probability weighs in favour of the original connection of a portion of the laws of the Sinai pericope with the covenant event at Sinai, and to show this a study must be made of the two blocks of law, known as the Decalogue and the Book of the Covenant, together with the collection of laws to be found in Ex. 34. But, as a preliminary, something has to be said of the types or forms of law which are to be found in these sections.

123 In using this designation we are not, of course, pre-judging the question of whether Moses had originally anything to do with the Sinai event. On the figure of Moses as a secondary introduction into the Sinai theme, cf. Noth, Überlieferung des Pent., pp. 177f; History, p.136. But for a different view cf. Beyerlin, Sinaitic Traditions; Fohrer, Überlieferung und Geschichte des Exodus, BZAW 91, 1964, e.g. pp. 35, 42, 52; Bright, Early Israel in Recent History Writing, pp. 106ff.

124 "What is old is valuable and 'right'. Age and primeval origin are proof of high value", Mowinckel, He that Cometh, p.36 n.2. This was written by Mowinckel in a different connection, but it is equally applicable to the present context.

- (i) The different forms of law and their origin.

A major step forward in research into different legal forms was made by Alt in 1934.¹²⁵ This investigation was concerned primarily with the Book of the Covenant¹²⁶ and its purpose was to determine the milieu in which the different types of law to be discerned there originated. Literary criticism has only a limited value in this connection since the formation of law is not a literary procedure, but is a consequence of different situations in the life of the community.¹²⁷ The laws of the Book of the Covenant had already been examined form-critically before Alt¹²⁸ but, apart from other points which distinguish the

125 Alt, "The Origins of Israelite Law", in Essays on Old Testament History and Religion, pp. 81ff.

126 Mowinckel, Le décalogue, p.31, argued that this title as an inclusive designation for the collection of laws in Ex. 20: 22-23: 33 is misleading and so should be avoided, since no such independent compilation ever existed, cf. also idem, "Israelite Historiography", ASTI 2, 1963, p.24 n.14; and idem, Tetrateuch-Pentateuch-Hexateuch, p.6 n.20. We retain the designation here simply for the sake of convenience without prejudice to the question of the unity of content of these chapters.

127 cf. Alt, *op.cit.*, pp. 86f.

128 In particular by A. Jepsen, Untersuchungen zum Bundesbuch, BWANT 111, 5, 1927. Jepsen, a pupil of Alt, distinguished four main types of law in the Book of the Covenant: 1. the Hebrew mishpatim, in Ex. 21: 2-11, 18-22; 21: 28-22: 16, which were taken over by the Israelites, after the settlement, from the Habiru, referred to in the Amarna Tablets, who were already in the land (pp. 54-81); 2. the Israelite mishpatim in Ex. 21: 12, 15-17, 23b-25; 22: 17-19, of which, however, only 21: 12, 15-17 and 22: 18 are strictly uniform; they are

Note 128 continued

all, nevertheless, divine statutes of Israelite origin (pp. 82-86); 3. moral prohibitions, in Ex. 22: 27; 23: 1-3, 6-9 (pp. 87ff); 4. cultic prescriptions in Ex. 23: 13ff which arose as a result of the post-settlement confrontation with Canaanite practices (pp. 90-95).

work of the latter from its predecessors, Alt was especially concerned to describe the particular circumstances which determined the different legal forms.¹²⁹ In the Book of the Covenant two types of law were to be discerned: casuistic and apodictic. The former, as its designation indicates, was case-law; that is, having described in detail a particular action, it went on to fix its consequences. A specific example will illustrate this. In Ex. 21: 18f we read: "when (וְ) men quarrel and one strikes the other with a stone or with his fist and the man does not die but keeps his bed, then if (וְ) the man rises again and walks abroad on his staff, he that struck him shall be clear; only he shall pay for the loss of his time, and shall have him thoroughly healed". This is a typical example of the form of casuistic law. The case is described by means of conditional clauses, the main case being introduced by the stronger conjunction וְ, and the subsidiary case, giving a closer definition of the situation in question, by the weaker conjunction וְ.¹³⁰ Following on this, the specific consequences of the given case are fixed. The purpose of laws of this type is clear, and also the particular sphere within which they were operative.

129 This side of the question was not fully discussed by Jepsen, who merely remarks, *op.cit.*, p.96, that the differences in form are the result of differences in origin .

130 cf. Alt, *op.cit.*, pp. 89ff. There is a mistake in the English translation on p.89, where the conjunctions וְ and וְ should be interchanged.

They were designed for use in the ordinary civil law-courts. They were the $\text{D}^{\text{U}}\text{Q}\text{W}\text{A}$ intended for the application of justice within the community.¹³¹ Furthermore, these laws have no particular religious or national reference,¹³² which makes it a priori unlikely that they are in any way peculiar to Israel or of Israelite origin. This is confirmed by the many parallels which can be drawn between the casuistic laws of the Old Testament and the laws of extra-biblical legal corpora, such as the Code of Hammurabi and collections of Hittite and Old Assyrian law.¹³³ In view of the differences, however, which also exist between the Old Testament casuistic laws and the laws of other nations, it is most likely that there is no direct dependence of one on the other.¹³⁴

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- 131 For an illuminating discussion of the context within which these casuistic laws were operative cf. L.Koehler, Hebrew Man, pp. 149-175.
- 132 The use of the divine name YHWH in Ex.22: 10 is taken by Alt, op.cit., p.92 n.24, p.96 n.36, as a secondary correction. That Elohim , which is otherwise used when necessary, is not simply the E parallel to the J use of YHWH is indicated by the use of the plural Elohim in 22:8, cf. Jepsen, op.cit., p.38.
- 133 Attention has been drawn to these parallels by several writers. Apart from the references given in Alt, op.cit., p.93 n.26, and Gerstenberger, Wesen und Herkunft, p.2 n.4, cf. Jepsen, op.cit., pp. 57ff; Cazelles, Études sur le Code de l'Alliance, pp. 156ff; M. David, "The Codex Hammurabi and its Relation to the Provisions of Law in Exodus", OTS 7, 1950, pp. 149-178. M.Greenberg, "Some Postulates of Biblical Criminal Law", in Yehezkiel Kaufmann Jubilee Volume, Jerusalem, 1960, pp. 5ff, argues for the distinctive nature of biblical law in general from that of the ancient Near East.
- 134 cf. e.g., Meek, Hebrew Origins, Harper Torchbooks 1960, pp. 68ff; J. Rylaarsdam, "Exodus", IB vol. 1, p.844.

Probably, the similarities indicate a general legal background, common to the ancient Near East, of which Israel made use. But where and when Israel adopted this casuistic law is less certain: it may have been after the settlement,¹³⁵ either at Shechem¹³⁶ or at a variety of places throughout the land;¹³⁷ but there is no inherent reason for denying that casuistic law was also in use among those semi-nomadic tribes and clans which later came to make up Israel.¹³⁸

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- 135 As well as those cited below, and others, cf. Rost, "Das Bundesbuch", ZAW 77, 1965, pp. 257f, who thinks that these casuistic laws formed the basis of an alliance between the Israelites and the Canaanites; cf. also Weiser, Introduction to the O.T., pp. 122f.
- 136 cf. Jepsen, op.cit., pp. 76f, who suggests Shechem and Gibeon, and thinks that those laws which he calls Hebrew mishpatim (cf. above n.128) derive from the Habiru of the Amarna Tablets who settled in these cities. At the time of the Israelite conquest it is these two cities alone for which no kings are given.
- 137 So Alt, op.cit., pp. 98ff, who argues that the whole country had a unified legal system as a consequence of the Hyksos rule, and that this was adopted by the Israelites just because they were in contact with it no matter where they settled.
- 138 cf. Cazelles, Études sur le code de l'Alliance, pp. 133ff, 166ff, 176, who argues that agriculture occupies a secondary position in the Book of the Covenant in relation to the pastoral life, that the laws consequently reflect the life of a people in the process of sedentarization, that, although the laws of the Book of the Covenant come from different sources, there is evidence of a unifying plan in the present compilation, and that this compilation is to be led back to Moses who promulgated this law to the tribes of Reuben and Gad when they asked that they should be allowed to settle in Gilead before

Note 138 continued

the settlement of the rest of the tribes. Cf. also Fensham, "The Probability of the Presence of Casuistic Legal Material at the Making of the Covenant at Sinai", PEQ 93, 1961, pp. 143ff, who argues that the door of the tent of nomads could easily have been the Sitz im Leben of some casuistic material, and that the connections which exist with Mesopotamian law may derive from the time of the patriarchs. See also R. Kilian, Literarkritische und formgeschichtliche Untersuchung des Heiligkeitgesetzes, BBB 19, Bonn 1963, pp. 2f; Bright, A History of Israel, p.79.

However, for our present purpose this question is not of vital importance. The original setting of casuistic law in the ordinary civil law-courts is quite clear, and its form, together with its fundamentally 'secular' concern and outlook would have made it largely unsuitable for cultic proclamation in the context of a covenant ceremony.¹³⁹

The other type of law, which Alt distinguished in the Book of the Covenant, he called 'apodictic',¹⁴⁰ and it is on the question of the origin, form and Sitz im Leben of this type that there is most controversy among scholars. Undoubtedly there is at least one other form of law in the Book of the Covenant, which sometimes comes into conflict with the casuistic law,¹⁴¹ but that all the non-

139 Schmitt, Der Landtag von Sichem, p.84, however, argues that the presence of casuistic law in Deuteronomy shows that this type of law was recited to the cult community. This is very likely the case, but it simply shows the propensity of Yahwism towards the incorporation of all spheres of life, and cannot show that such law formed an original part of the celebration of the Sinaitic covenant. See also Alt, op.cit., p.127 n.116.

140 Alt, op.cit., pp. 103ff. For the word 'apodictic' cf. Nielsen, Die Zehn Gebote, p.11 n.6 and J.G. Williams, "Addenda to 'Concerning One of the Apodictic Formulas'", VT, 15, 1965, pp. 114f. n.5.

141 cf. Alt, op.cit., pp. 104ff, on the lex talionis. We cannot agree with Whitley, "Covenant and Commandment in Israel", JNES 22, 1963, p.44, that form alone shows casuistic law to be older than apodictic, nor that a 'natural chronological development' can be traced from the casuistic form through the curse form (as in Deut. 27) to the hortatory form ('thou shalt

Note 141 continued

not....'), cf. Clements, Prophecy and Covenant, p.74
n.1. In "Kultisches Recht im A.T.", ZThK 60, 1963,
pp. 282f, Reventlow suggests that the mixture of apodictic
and casuistic law in West Semitic curses (cf. the article
by Gevirtz, referred to below n. 162) indicates that
the forms have a basically related origin, though later
in the same article (pp. 297f) he speaks of a gradual
amalgamation of the two types of law. Anyway, it is
questionable whether the mixture of apodictic and casuistic
in inscriptional material, any more than the same
mixture in the O.T. records, indicates a related origin
for both.

casuistic law can be classified as apodictic is not beyond question. The range of law which Alt includes in this classification is very wide. There is, first of all, law formed in the manner of Ex. 21: 12, with a participial clause defining the case, followed by a verbal predicate with the infinitive absolute, giving the consequences.¹⁴²

A second series of apodictic laws, closely related to the first, is to be found in Deut. 27: 15-26. Here the predicate is emphasized by being placed first; and here again the case is defined by means of a participial clause.¹⁴³ A third series of apodictic laws, comparable to the others, is to be found in Lev. 18, where the form has become one of direct prohibition rather than a statement of the case with its consequences as in the

142 מִכָּה אֵישׁ וְיָמָת מוֹת יוֹמָת cf. also Ex. 21: 15-17.

143 e.g. אָרָר מַעֲסִיג אֲבוֹל רָעָהוּ (Deut. 27: 17). Probably this series contained originally just ten clauses. In vv. 15, 26, the form - predicate with relative clause - marks out these verses as distinct from the rest where the form is predicate with participial clause. The general nature of v. 26, as against the specific concerns of the other curses, is a further argument against its originality, cf. Nielsen, *Shechem*, p. 82; idem, *Die Zehn Gebote*, pp. 20f; Alt, *op.cit.*, p. 114. An original nucleus in v. 15 is, however, argued for by von Rad, *O.T. Theology* 1, p. 215 n. 60.

other series.¹⁴⁴ To be reckoned along with this third series there are also various laws scattered through the Book of the Covenant which, together with the Decalogue, also take the form of categorical prohibitions using the negative š^{z} ¹⁴⁵ with the imperfect indicative of the verb.¹⁴⁶

- 144 Lev. 18: 7-17, dealing with degrees of affinity within which sexual intercourse is forbidden, is regular in form throughout. The object is put at the beginning, and the verbal predicate (imperfect indicative with the negative š^{z}) at the end, the only variable element being the actual relative named. Alt, op.cit., p.115 n.88, finds eleven clauses in vv. 7-17, but conjectures that a twelfth, of the same form could be found by rearranging v.18, in order to complete the list. K. Elliger, "Das Gesetz Leviticus 18", ZAW 67, 1955, pp. 7, 11 (= Kleine Schriften zum A.T., Theologische Bücherei 32, München 1966, pp. 238f, 243f.), thinks that a clause referring to the daughter has dropped out between v.9 and v.10. This yields a dodecalogue, which Elliger considers to be based on an original decalogue which was supplemented by the early additions of vv. 13, 17a; cf. also Nielsen, Die Zehn Gebote, pp. 21f.
- 145 There is another mistake in the English translation in Alt, op.cit., p.116 n.89, where š^{z} and š^{z} should be interchanged.
- 146 On the positive commands in the Decalogue, cf. further below pp. 404ff.

Apart from its form, however, apodictic law is distinct from casuistic also in its content. While casuistic law is conditional, and neutral with regard to religion and nationality, apodictic law is categorical, admitting of no conditions, and has exclusive reference to the Israelite nation and to Yahwism. Besides being thus 'volksgebunden israelitisch und gottgebunden jahwistisch',¹⁴⁷ apodictic law is rhythmical, concise, appears in series and combines religion, morality and law. Characteristic of this type of law is that the transgressor should suffer the death penalty, for breach of apodictic law was breach of the unconditional will of God for which the ultimate punishment of death was the only one possible.¹⁴⁸ This being the case, it is clear to Alt that the origin of apodictic law cannot be the same as that of casuistic. A context has to be found in which the passionate intensity of apodictic law, making absolute claims on the individual which derive ultimately from Yahweh, would be suitable, and such a context is provided by the framework in which one of the apodictic series is at present embedded. This is Deut. 27, where vv. 15-26 are presented as Yahweh's claims on the people proclaimed before the people by the levitical priests on Yahweh's behalf. This chapter, taken in conjunction with Deut. 31: 10ff., leads Alt to the view that the Sitz im Leben of apodictic law is the Israelite Feast of Tabernacles which, every seven years, took the form of a renewal of

147 Alt, Kleine Schriften 1, p.323

148 cf. Alt, "Origins of Israelite Law", pp. 110f., 114, 123f.

the covenant between Yahweh and Israel. Not only, however, was this the Sitz im Leben of apodictic law, it was also the place where this type of law originated. It is the covenant renewal festival which presents the situation necessary for the appearance of this legal form, and it is also to be understood that apodictic law originated, like the worship of Yahweh itself, in the wilderness period.¹⁴⁹

Alt's essay, which has formed the basis of much subsequent research, has, however, been severely challenged in a number of respects centering round the form, origin and Sitz im Leben of what he classified as apodictic law.

It was not long after Alt's work was published that Cazelles¹⁵⁰ questioned the designation as apodictic of those laws in participial form such as Ex. 21: 12, 15-17, while, by the same writer,¹⁵¹ the possibility of Egyptian analogies to the participial form was also raised. However, to deal with the form first: if the expression 'apodictic' is to be taken as a strictly formal designation, then it is clear that not all the apodictic laws which Alt proposes can be included under this heading.

לֹא תִרְצֶחַ is not the same, from the point of view of form, as מִכָּה אִישׁ וְאִתּוֹ ; nor has at any rate the first of these the same form as אָרַר מִכָּה רֵעֵהוּ בַּסֵּתֶר .

149 *ibid.*, pp. 125ff., 128ff., 131f.

150 Cazelles, *op.cit.*, p.128

151 *ibid.*, pp. 110f.

This is not to deny that all three forms may have had the same Sitz im Leben at some stage; but if the form can be taken as a reliable guide, it is not immediately obvious that they all had the same origin.¹⁵² It is perfectly clear that in the question of which laws should be classified as apodictic the basic point at issue is one of definition. Alt's definition, in so far as any systematic one is offered, is that apodictic law uses 2nd person singular form of address, is concise, metrical, emphatic, unconditional, appears in series and deals with the sacral sphere.¹⁵³

152 Thus, in this respect, it does not seem that the argument of Reventlow, "Kultisches Recht im A.T.", pp. 281f., has much validity. Reventlow attempts to defend Alt's view of apodictic law by asking if law was ever proclaimed without being connected to a threat of sanction. In this he appeals to Mowinkel, Psalmstudien V. Segen und Fluch in Israels Kult und Psalmdichtung, 1924, p.112, to support the theory that the law of the 'thou shalt not....' type was part of a cultic ceremony in which blessing and curse were also included, so that the only difference between the direct prohibition and the participial form would be that in the case of the former the sanctions were announced after all the laws had been proclaimed but in the case of the latter the sanctions were connected with each individual law. This then leads Reventlow to argue that since then there is no fundamental difference in Sitz im Leben between the two types they can both be classified as apodictic. However, if apodictic is to be taken simply as a classification of form, then this argument is a non sequitur.

153 Alt, op.cit., pp. 105, 109ff., 113., 116.

This is a very general definition, making use of both form and content, but it fails in that the characteristics given are not applicable to all the laws which Alt calls apodictic. This is most obviously the case in the use of the direct form of address. But a further failure of the definition is that it conceals the differences which really exist between the different forms classified as apodictic.¹⁵⁴ Thus, the form 'thou shalt not.....' is a direct prohibition; it does not presuppose an action having been carried out, and it provides no sanction. On the other hand, the participial form, as *אֲשֶׁר יַעֲשֶׂה אֱלֹהִים* is impersonal; furthermore, it presupposes a particular action having been carried out for which it provides the punishment. It is the same with the form of the curses in Deut. 27.¹⁵⁵ In this the participial form bears some resemblance to casuistic, yet it sharply differs from the latter in the general and uncompromising way in which it deals with a case, in its metrical structure, and in its tendency to appear in series which are clearly designed

154 cf. also K. Koch, Was ist Formgeschichte, Neukirchen 1964, p.12 n.15a.

155 So against Gese, "Beobachtungen zum Stil alttestamentlicher Rechtssätze", ThLZ 85, 1960, col. 148; cf. Kilian, "Apodiktisches und kasuistisches Recht im Licht ägyptischer Analogien", BZ 7, 1963, pp. 192f., who understands both as ritual curses with a cultic background, and draws parallels with similar cursing ceremonies in the Egyptian Execration Texts.

for some form of public proclamation or instruction.¹⁵⁶

- 156 It seems that Jepsen (cf. above n.128) recognized this relationship in his designation of casuistic law as Hebrew mishpatim, and of law formed in participial style as Israelite mishpatim. However, I feel uncertain as to the advisability of going so far as Gese, "Beobachtungen zum Stil....", col. 148 (followed by Fohrer, "Das sogenannte apodiktisch formulierte Recht und der Dekalog", KuD 11, 1965, p.72), in calling this participial law an abbreviated imitation of the casuistic legal style; or in following Reventlow, op.cit., p.282, and Gerstenberger, Wesen und Herkunft, p.25, in seeing the relationship in the opposite direction, whereby casuistic law is a development from the participial form. In support of the latter it is, of course, true that a possible connecting link between the participial and the casuistic forms can be discerned in passages such as Lev. 20: 9ff., where the participle has become a relative clause, although the לִמְשַׁפְּתִים still survives. The participial style would then be taken as representing an early stage of society when transgression of the norm was seen as subject to the ban or curse carried out under divine authority, while the casuistic form would reflect a more developed society. However, it should be asked how far the change of the participle into a relative clause is not due simply to the influence of the already existing casuistic form, and also whether, if the casuistic was to be a development of the participial form, it is not more likely that the connecting link would show, not a change of the participle into a relative clause, but the dropping of the לִמְשַׁפְּתִים and the substitution of the graded forms of punishment characteristic of casuistic law. However, there can be no certainty about this. R. Kilian, "Apodiktisches und kasuistisches Recht..", pp. 188, 191, while arguing that the participial form is not to be classed as apodictic, also holds that it is to be distinguished from casuistic because of the general nature of the case and the sanction; cf. also J.G. Williams, "Addenda to 'Concerning One of the Apodictic Formulas'",

Note 156 continued

pp. 113ff., who argues that the participial form is closer to apodictic than to casuistic, since the case involved is one only in a very narrow sense since it does not use the 'if/then' construction, and since it deals with spheres of life not dealt with by casuistic law.

It is thus clear that it is necessary to decide which of the two forms: the direct prohibition or the participial form, is to be classed as apodictic. If, as should be the case, the word is taken as the definition of a form, it cannot be applied to both types. We here follow the course adopted in some recent publications¹⁵⁷ in confining the word to the form of the direct prohibition.¹⁵⁸

Apodictic law is categorical, it does not presuppose a particular action having been carried out, nor does it provide a sanction. In adopting this definition, those laws formed in participial style are excluded from this category, but, since it has already been indicated that the participial styled law cannot easily be classed along with casuistic law, it is probably best to consider it as an independent form which will here be called simply law in participial form. It should be emphasized, however, that in narrowing down the range of law which can be called apodictic, there is no intention to pre-judge the issue of the origin and Sitz im Leben of these laws.

157 cf. especially Gerstenberger, op.cit., pp. 23ff; also Gese, "Beobachtungen zum Stil...", col. 148; Fohrer, op.cit., p.52; Kilian, "Apodiktisches und kasuistisches Recht...", pp. 188f. Williams, op.cit., pp. 114f. n.5, says that apodictic is present where 'there is a necessary relation between the subject... and what is asserted about him..., with no further clarification needed'. An argument could be put forward for including casuistic law within this definition.

158 On the positive commands of the decalogue, cf. below, pp.404ff.

It is solely a question of formal clarification.¹⁵⁹

It was clear to Alt that there was nothing specifically Israelite about casuistic law, but with apodictic law and that in participial style, he argued that these should be considered as Israelite in origin 'until the contrary is proved'.¹⁶⁰ From the point of view of form, however, it seems that the contrary has now been proved. Extra-Israelite parallels have been quoted for the participial style,¹⁶¹ while many non-biblical examples of the direct

159 cf. also McCarthy, Treaty and Covenant, p.35

160 Alt, op.cit., p.106. In the light of his further argument it is assumed that Alt was here thinking of all the law he classified as apodictic, and not just the lex talionis. In "Origins of Israelite Law", p.131, Alt leaves open the possibility of Israelite tribes having known or possessed such legal formulations before they were united in covenant with Yahweh, but apparently dismisses this possibility in the next sentence.

161 cf. the ref. to Cazelles above n.151; also Kilian, "Apodiktisches und kasuistisches Recht....", pp. 189ff. (the parallels with Egyptian literature are denied by Fohrer, op. cit., p.72 n.67, though without convincing reason); Williams, "Concerning One of the Apodictic Formulas", VT 14, 1964, pp. 484ff. The latter (pp. 487f) says that the O.T. participial form is unique only 'in the extreme brevity of the complete legal stipulation' but that, nevertheless, it should be considered simply as 'one of the variations... in a common formulaic family'.

prohibition have also been found.¹⁶² Nor are these parallels to be seen only in isolated instances; they occur in quite extensive series just as in the Old Testament.¹⁶³ If this is the case, then it is obvious that neither apodictic law nor that in participial style can be claimed as genuinely and uniquely Israelite, at least in form. It is true of course that the content of some of these laws can be nothing but Israelite, but that is a rather different question from that of the form. This being so, the problem of the origin of these forms must be considered. It has been suggested by more than one scholar that Israel adopted these legal forms in Canaan after the conquest,¹⁶⁴

162 cf. the references given by S. Gevirtz, "West Semitic Curses and the Problem of the Origins of Hebrew Law", VT 11, 1961, p.138; cf. also Gerstenberger, Wesen und Herkunft, pp. 130ff; von Rad, Deuteronomy (O.T. Library), London 1966, p.18; and for the Hittite treaties, cf. McCarthy, Treaty and Covenant, pp. 35ff. More will be said later on the latter parallel.

163 It was denied by Koch, op.cit., p.24 (cf. also Kilian, "Apodiktisches und kasuistisches Recht...", p.201), that series were to be found anywhere but in the O.T., but cf. Gerstenberger, Wesen und Herkunft, p. 86 n.1; McCarthy, Treaty and Covenant, pp. 35f.

164 cf. Nielsen, Shechem, pp. 33f, 84 n.6; Koch, op.cit., pp. 36f. The latter, however, bases this suggestion on his view that the oldest traditions of God's covenant with Israel (Gen. 15 and perhaps the basis of Ex. 24) know nothing of such apodictic commands. Presumably both these scholars use the term apodictic in the sense of Alt.

but recent investigation has made it likely,¹⁶⁵ at least for the apodictic form,¹⁶⁶ that it is unnecessary to argue for any direct borrowing on the part of Israel.¹⁶⁷ The work of Gerstenberger in this connection is probably the most significant contribution to this subject since the appearance of Alt's classic exposition, and it seems that the work of the latter must give way to that of the former in many major and minor points.

Having defined what he understands by the term 'apodictic',¹⁶⁸

165 Gerstenberger, Wesen und Herkunft des 'apodiktischen Rechts':

166 As noted above, n.156, Gerstenberger assigned participial styled law to casuistic.

167 cf. also Fohrer, op.cit., p.51, where he says that as early as 1957 he had concluded among other things that apodictic law belongs to the Urformen of human speech, and that consequently there was no need to search for a common historical place of origin for its appearance in different places in the ancient Near East. There are other points of contact between Fohrer and Gerstenberger, but also significant differences.

168 Gerstenberger, Wesen und Herkunft, pp. 24ff, 27, excludes the law in participial form. Only the prohibitions in 2nd pers. sing. are classified as apodictic, though impersonal commands should not automatically be excluded from the Gattung (but, cf. ibid., pp. 69f., where the address form is taken as primary). Furthermore (ibid., pp. 27, 43ff, 46ff), positive forms are not foreign to the Gattung. Also, Gerstenberger (ibid., pp. 50ff., cf. also p.76) argues that, contrary to the general view, h^{h} with the jussive can be just as absolute and forcing in intention as h^{h} with the imperfect, so that both can be included in the apodictic Gattung, cf. also Kilian, "Apodiktisches und kasuistisches...", p. 186. Against Gerstenberger on this point, cf. Koch, op.cit., p.11 n.12.

and indicated the parts of the Old Testament where these apodictic laws, or prohibitions as they are called, are to be found, Gerstenberger goes on to show that in the vast majority of cases the present appearance of these prohibitions as speech of Yahweh is secondary.¹⁶⁹ If this is the case then immediately the question arises as to what authority stands behind these prohibitions, for assuredly their categorical and uncompromising expression does presuppose an authority which could make such demands. If the styling of the prohibitions as speech of Yahweh is to a large extent secondary, then it is unlikely that the Gattung of the prohibition had its origin in the covenant festival cult. Indeed, against Alt, it is to be argued that this Gattung has an integral connection with Yahwism only in the prohibition of foreign gods and images.¹⁷⁰ Although there are quite a number of prohibitions referring to cultic matters, it is still evident that the general concern of the Gattung is with prescriptions for every-day life within a social group. This daily life should not be set in contrast with the cultic sphere, for every man of antiquity had to know something of the proper mode of behaviour vis-à-vis the sacral with which he would often come in contact. Having determined that the Gattung has its origin in the life of the people,¹⁷¹

169 Gerstenberger, op.cit., pp. 55ff, 58ff, on Exodus 22: 20ff; the Decalogue; Ex. 34: 12ff, and Lev.19.

170 cf. ibid., pp. 62, 95, 109, 114.

171 Gerstenberger, Wesen und Herkunft, p.63, also points to a number of prohibitions in Leviticus and Deuteronomy which deal with precautionary measures arising from anxiety about magic and demonic powers. These could not have originated in Yahweh worship and are a further indication of a different origin of the Gattung.

Gerstenberger¹⁷² takes up Elliger's analysis of Lev. 18. The prescriptions here are so 'untheological' that Elliger can express the view that they could derive from the nomadic time of Israel, even from the pre-Yahwistic period. Yet, since he subscribed to Alt's view of the origin of the Gattung, Elliger argued that Lev. 18, in its present formulation comes from immediately before or after the settlement when Israel had adopted Yahweh worship.¹⁷³ However, once this basic presupposition is disregarded, it is clear that the most obvious and natural setting for these prescriptions is the clan. They are an old clan order, and this must be understood as the milieu in which they originated. They were the authoritative commands of the clan or family elders,¹⁷⁴ and indeed this original setting of the Gattung is clearly preserved in Jer. 35: 6f, where the authoritative commands of Jonadab, the

172 *ibid.*, pp. 59f.

173 Elliger, *op.cit.* (n.144), p.12 (=Kleine Schriften, p.244), does not argue expressly for a cultic origin, as Gerstenberger, *op.cit.*, p.60, says. Elliger's words are: 'Nur die apodiktische Form lässt es geraten erscheinen, mit der jetzigen Formulierung der Verbote in die Zeit hinunterzugehen, wo das unter Jahwes Willen sich beugende Israel bereits in Palästina sass oder doch auf dem Wege dahin sich befand'; i.e. it is the date rather than the express place of origin that concerns Elliger.

174 Gerstenberger, *op.cit.*, pp. 109ff, 112.

'father' (28) of the Rechabites, are preserved.¹⁷⁵ So the use of the direct personal form of address is to be derived, not from divine self-revelation but from the instruction which took place in a clan context. The authority behind the prohibitions is not the absolute will of Yahweh, but is rather of the patriarchal type.¹⁷⁶ This is also the situation which must be presupposed for the instruction, given in direct address,¹⁷⁷ which is to be found in the wisdom literature. Here again there is teaching on the part of the father or head of the family.¹⁷⁸

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- 175 Koch, op.cit., p.36 n.16, points out that these Rechabite regulations are styled in 2nd pers. pl., and 'stammen aus verhältnismässig später Zeit'. The last point can refer only to their present position in the Book of Jeremiah, but says nothing about the age of the rules themselves. On the first point, cf. Gerstenberger, op.cit., p.72. I cannot see how Koch, op.cit., p.36, can claim, in view of Lev. 18 especially, that 'ein andere Verwendung apodiktischer Gebote als beim Bundesfest ist im Alten Testament nirgends zu erkennen'.
- 176 Gerstenberger, op.cit., pp. 112ff. On the authority of the family father, cf. ibid., pp. 115f.
- 177 Instruction cast in an impersonal style has a different origin, cf. Gerstenberger, op.cit., pp. 119ff.
- 178 ibid., p.121. The parallels in content as well as in form between the legal prohibitions and the instructions of the wisdom literature also lead to the understanding of the same origin for both, cf. ibid., pp. 64f, 129. What differences do exist between them, characteristics which are no longer compatible with the situation of the clan order, are to be ascribed to the fact that the prohibitions of the ancient clan have been taken up into two different streams of tradition, the cultic and the wisdom, cf. ibid. pp. 129f.

Thus the Gattung of the prohibition has its origin, not in the Yahweh covenant festival cult, but in the nomadic or semi-nomadic clan.

Gerstenberger's view has been subjected to some criticism, but this has not succeeded in undermining his basic argument concerning the origin of apodictic law.¹⁷⁹

179 Thus Reventlow, op.cit., pp. 278f., asks if the alternative for the origin of apodictic: covenant festival cult or clan ethos, is really an alternative. Reventlow emphasizes Gerstenberger's view (op.cit., p.143) that the clan lived under the aegis of the god, and thus the commands spoken by the family elders were valid and authoritative not so much as a result of the individual power of the clan elder but as a result of the sanctified order which he represented. The clan father speaks as the mouth of the deity. However, as M.E. Andrew rightly points out: 'saying that the prohibitions originated in the clan ethos which was regarded as an order stemming from the divinity is not the same as saying that they had their origin in a cultic procedure', cf. Stamm and Andrew, The Ten Commandments in Recent Research (SBT Second Series 2), London 1967, p.59. The latter (ibid.) also rightly criticizes Reventlow's objection (op.cit. p.281) that the parallels between prohibitions and wisdom are over-rated and hardly convincing in view of the differences in milieu and sphere of validity. This objection takes no account of Gerstenberger's explanation that these prohibitions were taken up and developed in two different streams of tradition.

In our view, the origin of apodictic law, as postulated by Gerstenberger, provides the simplest solution to the question of its form, together with that of the clear parallels which can be drawn between these legal prohibitions and Old Testament and general ancient Near Eastern wisdom warnings.¹⁸⁰ But apart from this, one particular aspect of his work, which is not, however, essential to his main thesis, arouses serious misgivings.¹⁸¹ This is Gerstenberger's treatment of the relation between prohibition and covenant. This subject is not the clearest part of his book, but enough is said to give the main outline of his thought. According to Gerstenberger,¹⁸² the only prohibitions which have any right to be called covenant stipulations are those dealing with foreign gods and images.¹⁸³ These have an integral connection with Yahwism and one may concur with the view that they originated in the covenant cult. But it is still to be understood that even these particular prohibitions are no original part of the covenant cult. The covenant certainly always involved obligation, but this obligation remained unexpressed.¹⁸⁴

180 Gerstenberger is now followed by von Rad, Deuteronomy, p.18.

181 Nielsen, Die Zehn Gebote, pp. 62f, has also drawn attention to this in spite of the origin which he ascribes to the Decalogue.

182 *ibid.*, pp. 61f., 94f.

183 Even the prohibition of the misuse of the divine name has extra-biblical parallels, cf. *ibid.*, p. 62 n.2.

184 *ibid.*, p.95. Here Gerstenberger refers to the covenant meal, Ex. 24: 1-2, 9-11; cf. also *ibid.*, p.92.

The essential meaning of this covenant between Yahweh and Israel came to be expressed in the prohibition of apostasy and images only as a consequence of Israel's reflection on the significance of this covenant for itself and, after this first step was made, the relation between Yahweh and Israel was gradually defined in more and more detail with further prescriptions.¹⁸⁵ But once the idea gained currency that Yahweh was not simply the only God, but was a God governing all spheres of life, then there was no reason why all sorts of rules and laws should not find place within the covenant. The Book of the Covenant, Deuteronomy and the Holiness Code witness to the continuing process of assimilation of all commands by the covenant tradition.¹⁸⁶

185 *ibid.*, p.95 'Erst nachdem die Bundessatzungen in der Reflexion über die Bedeutung des Bundes für Israel formuliert worden waren, hätte dann der Geist dieses Bundes zwischen Jahwe und Israel seinen Ausdruck in der Verboten des Fremdgötter- und Bilderdienstes, möglicherweise mehr und mehr in zusätzlichen, das Verhältnis von Jahwe und Israel näher bestimmenden Anweisungen (vgl. Ex. 20: 23ff; 23: 10ff; 34: 10ff.) gefunden'.

186 *ibid.*, p.95. On p.143 Gerstenberger gives a somewhat different account of the process whereby the prohibitions were brought into the cultic sphere. Here he argues that since the clan order was always considered to be under the divine aegis, the connection of the prohibitions to the cult must be very old. Confessional ceremonies and oaths of innocence demanded a confession of guilt or an oath of innocence, i.e. a statement of standard behaviour before the deity (cf. also *ibid.*, pp. 134f, where Gerstenberger argues that from the confession of innocence in the

Note 186 continued

Egyptian Book of the Dead one may conclude back to a series of commands and prohibitions). But when the prohibition first came into contact with the cult in the form of confession then the opportunity was given for those in charge of the cult to collect these norms. In this way the Entrance Liturgies may have originated and also the collections of commands and prohibitions which, like the Decalogue, were brought into worship as proclamation of the divine will; cf. also Gerstenberger, "Covenant and Commandment", JBL 84, 1965, p.51.

One may agree with the main outline of the process here described. Indeed if Gerstenberger's view of the place of origin of apodictic is adopted, then some such process as the one given by Gerstenberger has to be understood. However, there is more than just a hint or two that Gerstenberger also attempts to fix chronologically the stages by which this process was carried out. For example, the reference to the $\text{לְעֵינֵינוּ} \text{פִּי}$ in Josh. 24: 25ff., as having been promulgated at Shechem, is taken as a late addition based on familiarity, from the Sinai traditions and Deuteronomy, with the idea of law-giving coupled with covenant conclusion. Originally, in place of the present vv. 25ff., only the one covenant demand of loyalty to Yahweh was mentioned. Furthermore, no other Old Testament texts, either cultic or prophetic, which might be expected to give some information on the relation between covenant and prohibition, can show any organic connection of covenant and prohibition, of which the latter is used predominantly to regulate human relationships. In fact, it is clear that, as far as Gerstenberger is concerned, the process of coming together of covenant and prohibition extended over the whole pre-exilic period, but really only comes to expression at the earliest in the time of Jeremiah.¹⁸⁷

We have already dealt with Josh. 24 from a literary-critical and traditio-historical point of view,¹⁸⁸ and

187 Wesen und Herkunft, pp. 107f. and n.5.

188 cf. above pp. 193ff.

have seen that, although there are late expressions used in vv. 25ff., there is no reason to doubt that the reference to law promulgated by Joshua on this occasion is original. We have also already had occasion to note and criticize Gerstenberger's understanding of the law presupposed, for example, by Isaiah in his oracles.¹⁸⁹ One may add to this a further criticism, concerning the parenesis, or exhortatory material which is often found attached to the prohibitions. It is, of course, true that in view of the fact that similar exhortation appears in wisdom warnings¹⁹⁰ one cannot argue that it is a peculiarity confined to law which was proclaimed and preached in the covenant cult,¹⁹¹

189 cf. above n.112

190 cf. Gerstenberger, Wesen und Herkunft, pp. 122, 124f.

191 It could perhaps be argued that this type of parenesis came into the wisdom literature under the influence of the Yahweh covenant festival cult, but (a) the appearance of such material in extra-biblical texts (cf. Gerstenberger, Wesen und Herkunft, p.133), and (b) the fact that the parenesis often has no particular connection with Yahwism, argue against this. With regard to (a), it is stated by Gemser, "The Importance of the Motive Clause in Old Testament Law", VT Suppl 1, 1953, p.62, that such motive clauses nowhere appear in the law-codes of the ancient Near East. This may be true, but it is to be noted that the parallels to the Old Testament prohibitions are on the whole not to be sought in these law-codes, but in other texts, cf. Gerstenberger, Wesen und Herkunft, p.36 n.3.

and indeed such material is quite compatible with the situation of instruction by the clan father. Yet there certainly are prohibitions in the Decalogue, the Book of the Covenant and Deuteronomy, which clearly indicate that at some stage these laws were proclaimed in the covenant cult. This is shown by the form of parenesis which is attached to them where Yahweh speaks in the first person, and where reference is made to Israel's Heilsgeschichte. Now, it may be true that such parenesis and such presentation of the prohibitions as speech of Yahweh represents a secondary stage in the history of the prohibitions,¹⁹² but that this kind of extension to the prohibitions is to be taken as Deuteronomic¹⁹³ is a different question. In fact, it has been shown¹⁹⁴ with regard to the parenesis in the Book of the Covenant that the language of these extensions to the prohibitions is pre-Deuteronomic and, furthermore, that its most probable Sitz im Leben is in the covenant festival cult where the law was proclaimed. Only against a background such as this are such features as the rhetorical style, the direct address, the first person used of Yahweh and expressions

192 For a criticism of Gemser, op.cit., pp. 52f., in this connection, cf. Gerstenberger, Wesen und Herkunft, p. 49 n.3.

193 So Gerstenberger, Wesen und Herkunft, p.56, though only 'zum Teil'.

194 cf. Beyerlin, "Die Paränese im Bundesbuch und ihre Herkunft", in Gottes Wort und Gottes Land (H.W. Hertzberg Festschrift), Göttingen 1965, pp. 13ff., 16ff.

such as לְכָל הָעָם properly intelligible. On the other hand, however, there is everything for the theory, and nothing convincing against,¹⁹⁵ that the Book of the Covenant¹⁹⁶ derives from the pre-monarchy period in Israel's history. There is nothing in the laws to indicate that they were collected and compiled in this fashion at a later date.¹⁹⁷

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- 195 I cannot see that it is at all necessary to follow Nielsen, Die Zehn Gebote, p.47, in turning Ex. 20: 24-26 into a protest against the altar building, and so-called centralizing tendencies of the Jerusalem temple in the time of Solomon.
- 196 The actual extent of the original collection of laws in the so-called Book of the Covenant is a matter of some dispute, revolving round the nature of 23: 20-33. That these verses are deuteronomistic (so Beyerlin, Sinaitic Traditions, p.5; cf. also Noth, Überlief. Stud., p.13 n.1) is disputed by C. Brekelmans, "Die sogenannte deuteronomischen Elemente in Gen.-Num.", VT Suppl., XV, 1966, p.95; cf. also Eissfeldt, Introduction, p.214.
- 197 cf. Jepsen, op.cit., pp. 97ff; Nielsen, Die Zehn Gebote, p.63; Kraus, Worship, pp. 27f. n.8; Horst, "Bundesbuch", RGG (3rd edit.), vol.1, col. 1525. Proposals of a later date of compilation have been adequately dealt with by Weiser, Introduction, pp. 121ff. A fundamental connection of the Book of the Covenant with the so-called amphictyony of the 12 tribes in the period of the Judges has been argued for by Noth, Das System, pp. 98f; idem, "The Laws in the Pentateuch", p.33; but cf. Mendenhall, "Ancient Oriental and Biblical Law", p.35 n.30, who remarks that hardly anything in the Book of the Covenant requires a legal unit larger than a village. On the question of the relation between the Book of the Covenant and Deuteronomy, cf. Weiser, Introduction,

Note 197 continued

p. 131, who thinks that the latter was designed to replace the former both from a literary and a cultic point of view, cf. also Eissfeldt, Introduction, pp. 220ff; but against this, cf. von Rad, "Deuteronomy", IDB vol. 1, p.833a; cf. also L'Hour, "L'Alliance de Sichem", p.351.

However, more than this can be said. An examination of the Book of the Covenant will reveal that parenesis appears primarily with the apodictic law, the prohibitions.¹⁹⁸ But there is at least one other case where the same sort of parenesis is attached to a law which is not apodictic.¹⁹⁹ On the other hand, the case in question cannot easily be classified as casuistic, for it shows significant changes in form from what we understood earlier²⁰⁰ as the 'normal'. In the first place, the main case is not introduced by the conjunction וְ and subsidiary cases by the conjunction וְ, and in the second place the law is cast in the form of direct address. However, the relationship to casuistic is still so close that it is reasonable to assume that originally this was a casuistic law which is now changed under the influence of another form,²⁰¹ the

198 cf. Ex. 22: 20 (EVV 21); 23: 7, 8, 9. There is also the parenesis attached to the positive law in 23: 15.

199 cf. Ex. 22: 25f (EVV 26f). Gemser, "Motive Clause", p. 53, would include also 20: 25; 21: 8, 21. But 20: 25 should be judged rather as a subsection of the altar law of v. 24, and not as a distinct casuistic law. On 21: 8, 21, cf. Beyerlin, "Paränese im Bundesbuch", p. 19 n. 39. However, we do not follow the latter (p. 19) in confining the parenesis to the commands and prohibitions.

200 cf. above, pp. 298f.

201 cf. Alt, "Origins", p. 89.

apodictic with which otherwise the parenesis appears. But since we have already seen that this apodictic with its parenesis is best understood against the background of the proclamation of law in the covenant cult, we are then led to the conclusion that it was by being taken up into this context that this particular casuistic law has undergone the changes observed. Thus, while not denying that apodictic law has its ultimate origin in the clan order, we would argue that already in the period of the judges this law²⁰² had been taken up into the covenant festival and proclaimed as the will of Yahweh. Furthermore, in view of the 'casuistic' law just dealt with, it appears that the tendency was to include within this context also the wholly unrelated casuistic law which had its proper Sitz im Leben in the civil courts. Thus it will be seen that the process which Gerstenberger envisages as spread over the whole pre-exilic period was in reality carried out in a much shorter time.²⁰³

202 This, of course, does not apply only to those apodictic laws which have a specific kind of parenesis. If it is accepted that the latter was, at this time, proclaimed in the covenant cult, it is most natural to understand that the case was the same also with those apodictic laws which have no parenesis.

203 Gerstenberger's view of this process seems to be modified somewhat in his article "Covenant and Commandment", p.51, where he writes: 'Since social and moral cleanness always has been a prerequisite for cultic fitness and acceptability, moral requirements must have entered the cultic zone very soon'.

But if it is established that the proclamation of law as the divine will was part of the covenant ceremony in the period of the judges, then immediately the question arises if this was true also for the pre-conquest period. In other words, is there any positive indication that the Decalogue or the Book of the Covenant is an original constituent of the covenant between Yahweh and Israel?

- (ii) The covenant stipulations of the J and E narratives in the Sinai pericope.

As a first step towards arriving at a satisfactory solution to this question, it is perhaps of some benefit to enquire which, if either, of these two legal blocks belongs to the Sinai pericope and which is an insertion. The text is obviously disarranged. In the last two verses of Ex. 19, Moses is sent down from the mountain in order to bring up Aaron, and to warn the priests and people not to break through the bounds which Yahweh had set at the foot of Sinai. But Ex. 20 begins immediately with God's proclamation of the Decalogue and it is only later, in vv. 18-21, that the people ask Moses to act as intermediary between them and God and convey God's will to them indirectly. Thereupon follows the Book of the Covenant with no preliminary record of Moses having once again ascended the mountain. Why should the people ask Moses to act as intermediary after God had announced his will in the Decalogue, apparently to all the people? This would make

it appear either that the Decalogue is an insertion which does not belong in this context, or that Ex. 20: 18-21 have been misplaced. If the latter is the case, and these verses really belong before the Decalogue which Moses then mediates to the people, then the abrupt transition would give the impression that it is the Book of the Covenant which is the later insertion brought into this context in order to enhance its esteem in Israelite eyes;²⁰⁴ and in order to accomplish this purpose, and to make the Book of the Covenant a direct revelation of the divine will to Moses and through him to the people, Ex. 20: 18-21 were taken from their original context and transferred to their present position.

In favour of the first position, i.e. that the Decalogue is the later insertion, strong arguments were put forward by Mowinckel.²⁰⁵ It was the view of the latter that Ex. 34 is the J parallel to the E covenant of Ex. 19-24. The J covenant conditions in Ex. 34, however, at present number thirteen, but it may be assumed that the original

204 cf. above, n.124

205 Mowinckel, Le décalogue, pp. 18-50, Mowinckel's position is re-affirmed in Tetrateuch-Pentateuch-Hexateuch, p.6 n.20; cf. also the position of Nielsen, below n.217.

total was either twelve or ten.²⁰⁶ The Decalogue of Ex. 20 obviously constitutes no close E parallel to this J covenant, and so the commandments of the E version are to be sought within the Book of the Covenant.²⁰⁷

206 Mowinckel, *Le décalogue*, pp. 22ff, proposes that vv. 18, 22a, 22b should be taken as later additions giving a more precise definition of the general command of vv. 23f. These additions, which were made very early, caused the present incoherence in the order of the commands and also upset the original total of covenant stipulations. The last two words of v. 28 may refer to these original ten commandments, or they may be a gloss based on Ex. 20 (cf. *ibid.*, pp. 20, 27). The introductory formula to this J decalogue is to be found in vv. 6abb, 7, which were joined originally directly to v.14 (on this self-revelation formula cf. also Zimmerli, *The Law and the Prophets*, pp. 57f.). The earlier view of Kittel, *Geschichte des Volkes Israel* 1 (3rd edit.), pp. 492ff., that Ex. 34 originally contained the Decalogue of Ex. 20, is dismissed by Mowinckel.

207 Mowinckel argues, however, that a Book of the Covenant as such never existed. The ספר הברית referred to in Ex. 24: 7 designates not what is popularly known as the Book of the Covenant, which is really just a compilation which has grown up gradually within E, but the actual covenant conditions of the E version of the covenant, which are parallel to those contained in the J version; cf. also above, n. 126.

The basis of this alliance must have consisted of religious precepts, so the mishpatim are automatically excluded. What have to be considered are the דְּבָרֵי of Ex. 20: 23-26; 22: 28-29 (EVV 29-30); and 23: 10-19.²⁰⁸ The commandments contained in these passages are the conditions of the E version of the covenant, as is shown especially by the close parallels which exist between these passages and Ex. 34: 14ff. This, and the fact that the E version has many more commandments than that of J,²⁰⁹ are to be explained by assuming that we have here two different redactions of a common source²¹⁰ which was composed originally of ten precepts. It is to this collection that סֵפֶר הַדְּבָרִים in Ex. 24: 7 refers.²¹¹

208 *ibid.*, pp. 32ff. Ex. 23: 1-9 is taken as an early amplification of these דְּבָרֵי, while 22: 17-27 (EVV 18-28) is an appendix to the mishpatim. On this question cf. also A. Eberharter, "Besitzen wir in Ex. 23 und 34 zwei Rezensionen eines zweiten Dekalogs und in welchem Verhältnis stehen sie zu einander?", *BZ* 20, 1932, pp. 157-162.

209 Mowinckel finds seventeen commandments altogether, but, by taking into account the early addition of Ex. 23: 1-9, finds a further seven, thus yielding a total of twenty-four, which may have been consciously modelled on the dodecalogue.

210 cf. also S.R. Driver, *Exodus*, CBSC 1929, pp. 370ff; Stamm, "Dreissig Jahre Dekalogforschung", pp. 221ff.

211 As is common with most commentators, Mowinckel, *Le décalogue*, p. 45, takes the words אֵלֶּה הַדְּבָרִים אֲשֶׁר אָמַר יְהוָה אֶל מֹשֶׁה in Ex. 24: 3 as an addition made by the interpolator of the mishpatim in the Book of the Covenant.

Even if the impression is aroused that Mowinckel relies too heavily on the methods of literary criticism for his results at this point, there can be no doubt that his view that the original covenant conditions of the J and E covenant narratives are to be found in Ex. 34: 14ff and the parallels to the latter in the Book of the Covenant²¹² has two definite literary advantages: on the one hand it means that the possibility that the present series of commandments in Ex. 34 has replaced a different series does not have to be supported and explained; and, on the other hand, in Ex. 19ff, where something has to be done whatever theory is entertained, the simplest solution of taking the Decalogue as a later addition and Ex. 20: 18-21 as the introduction to the ד'ררר of the Book of the Covenant is adopted. The theory also accounts adequately for the definite parallels between the commandments of Ex. 34 and these ד'ררר.

However, it is precisely on literary grounds that Mowinckel leaves himself open to objection. There is no 'reconstruction' of an original decalogue in Ex. 34 which is beyond criticism, and the various attempts which have been made at such a reconstruction show, by the difference in results,

212 Mowinckel, Le décalogue, pp. 44f, does not, of course, say that these commandments belonged to the original covenant on Sinai. With regard to the latter he points to Ex. 19: 3b; 24: 1a, 9-11 as the most ancient layer of the account, which says nothing of the promulgation of **any** commandments, but tells only of a covenant established by a common meal.

the arbitrary nature of the whole procedure.²¹³ Yet, the fact that it is impossible to posit ten 'original'

213 It is not intended here to review all these attempts, but it may be objected against Nowinckel (cf. above n.206) that it is just as likely that the particular precepts of Ex. 34: 18, 22a, 22b, commanding the observance of the three festivals, are original, while the general command of vv. 23f is the later. For Goethe's reconstruction of an original decalogue here, and for Wellhausen's view of Ex. 34 as a dodecalogue which may be reduced to a decalogue, cf. Nielsen, Die Zehn Gebote, pp. 18f. For a further bibliography on this question, cf. Rowley, "Moses and the Decalogue", in Men of God, London 1963, pp. 7ff. Rowley seems to assume that there was a decalogue here originally 'however we delimit its ten terms'. The attempt of Auerbach, "Das Zehngebot - Allgemeine Gesetzes-Form in der Bibel", VT 16, 1966, pp. 255ff., to reconstruct a decalogue here is too patently arbitrary to require detailed refutation, which applies also to some of the other decalogues he finds in various texts. Newman, op. cit., pp. 44ff (cf. also *ibid.*, p. 147 n.58) also finds a decalogue in Ex. 34. But this, he suggests (pp. 49, 146f), is expansion, undertaken by the JE redactor, from an original series of six 'pure' apodictic laws, which may have corresponded to the six tribes of the southern, Hebron amphictyony. This, of course, is just a suggestion, but it may be objected that v.20b, which is formulated in impersonal, plural style, can hardly be classified along with the rest as 'pure' apodictic. Noth, Überlief. des Pent., p.33 (cf. also *idem*, Exodus, O.T. Library, pp. 262f), also appears to think that a literary-critical division of the text of Ex. 34 into primary, secondary and additions to secondary passages can yield a decalogue, but against this cf. Alt, "Origins", p.117 n.95; Beyerlin, Sinaitic Traditions, p.81; Kraus, Worship, p.29.

commandments for Ex. 34, does not cast doubt on, but only serves to confirm, the originality of the last two words of Ex. 34: 28b: עֲשֵׂתָּהּ הַדְּבָרִים; for it is clear that such words could not have been added later as a summary description of the present heterogeneous collection.²¹⁴

This being the case, one may lead the argument further and say that since the phrase 'the ten words' is original, then the present commandments in Ex. 34: 14-26 have replaced another series which could be described as 'ten words', and that the most likely series for this place is the Decalogue of Ex. 20.²¹⁵ When the substitution took place and the reason for it are not entirely certain, but it was certainly early, at any rate before the combination of J and E.²¹⁶

214 So with Beyerlin, Sinaitic Traditions, p.81; Nielsen, Die Zehn Gebote, p.30; against Driver, Exodus, p.374; Gerstenberger, Wesen und Herkunft, p. 77 n.1.

215 Difficulty has sometimes been felt in agreeing on the actual numbering of this series of ten in Ex. 20, for which cf. below. However, there is another connection between Ex. 34: 27f and the Decalogue of Ex.20, which is mentioned below, n.221.

216 cf. Beyerlin, Sinaitic Traditions, pp. 81f. It seems to have been because the JE redactor found a different series of covenant stipulations in the J version that he decided to adopt the procedure of letting the J and E accounts of the Sinai covenant follow each other, by using the motif of the breaking of the covenant and its renewal, rather than following his usual method of amalgamating the two versions. For the view that the commands of Ex. 34: 14-26 constitute one version of an ancient festival calendar

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(of which another version is to be found in Ex. 23: 14-17), supplemented by four commands concerning the Passover, cf. Kosmala, "The so-called Ritual Decalogue", ASTI 1, 1962, pp. 31ff (and for an apparently somewhat similar view, cf. the unpublished work of Cross and Wright, referred to in Wright, "The Lawsuit of God", p.50 n.53). However, whether or not this is correct, it seems probable that the present text of Ex. 34: 14-26 is the fruit of the Israelite encounter with Canaanite religion and culture, and that it was in order to give positive and directly relevant direction and instruction in the problems which such an encounter was bound to generate that these commands found their way into the covenant festival, cf. Beyerlin, Sinaitic Traditions, pp. 85ff. On the other hand I can see no real evidence for the view of Rowley, "Moses and the Decalogue" pp. 18f (cf. idem, From Joseph to Joshua, pp. 157f), that this 'Ritual Decalogue' derives ultimately from the Kenites, nor for the view of Nielsen, Die Zehn Gebote, pp. 29f, who brings the cultic 'decalogue' into close connection with Josiah's reform. The other festivals receive just as much emphasis as the Passover in this collection.

What has been said so far in relation to Ex. 34 in a sense begs the question on what are to be understood as the covenant stipulations of the E covenant narrative in Ex. 19-24. But that it is the Decalogue of Ex. 20 which, from a literary point of view, belongs in this narrative,²¹⁷ can be supported by another consideration. In Ex. 24: 3

217 That the Ex. 20 Decalogue belongs to the P document, as Mowinckel, Le décalogue, pp. 48ff, argued, has been adequately refuted by Eissfeldt, Introduction, p.215. The argument of Nielsen, Die Zehn Gebote, pp. 45ff., bears some resemblance to that of Mowinckel in that, though not seeing the Ex. 20 Decalogue as part of the P document, he argues that the original commandments of the Sinai pericope are to be found in Ex. 20: 22-26; 23: 10-19. The Decalogue of Ex. 20: 1-17 has no original literary connection with Ex. 19-34, but was brought into its present connection sometime between 622 (Josiah's reform) and 560 (the time of composition of the deuteronomistic historical work). The excision of the Decalogue from the Sinai pericope is based on the literary-critical observation that Ex. 20: 18-21 should follow directly on Ex. 19: 16-21, and on the view that Ex. 20: 18-21 certainly does not presuppose that such a declaration of the divine will as the Decalogue had already been given. On the other hand, the approximate date assigned to the insertion of the Decalogue into the Sinai pericope appears to be determined by Nielsen (*ibid.*, pp. 28ff, 42ff) with reference to the position of the Decalogue in Deuteronomy. Here the Decalogue, though composed in singular style, is embedded in a context using the second person plural which Nielsen, in common with others, takes as a sign of the work of the deuteronomist. No reference to the Decalogue can be found in passages in singular form of address which constitute Urdeuteronomium, except perhaps in Deut. 4 where there

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is, however, a breakdown of the sing./pl. form of address as criterion for the distinction between early and late passages. However, even this chapter cannot show that the Decalogue had any place in the original Deuteronomy. Thus the Decalogue was brought into its present position in Deuteronomy only by the deuteronomist in 560 B.C., and from this it is to be understood that it was brought into the context of the covenant at some stage between the time of the original Deuteronomy and the time of the deuteronomist. However, even if one agrees with Nielsen on the question of the period at which the Decalogue was taken into the present book of Deuteronomy, the conclusion which he draws, viz. that this also indicates the approximate period at which the Decalogue was taken into the covenant context, or into the literary context of the Sinai pericope in Ex. 19ff, does not necessarily follow. That the Decalogue was not part of the original Deuteronomy may also simply mean that the tradition of the covenant making at Sinai/Horeb and the tradition of Moses' proclamation of the law in the plains of Moab were originally separate, cf. S.J. de Vries, "Review of Nielsen, *Die Zehn Gebote*", VT 16, 1966, p.532. So the place of the Decalogue with regard to the covenant should not be judged with reference to its place with regard to Deuteronomy.

it is very probable that Mowinckel and others are right in taking the words וְאֵלֶּיךָ יָשֻׁבִּימֶנְךָ as a later addition²¹⁸ which was brought into this connection when the mishpatim were added to the Book of the Covenant. Thus, the Book of the Covenant mentioned in Ex. 24: 3-8²¹⁹ is composed of וְאֵלֶּיךָ יָשֻׁבִּימֶנְךָ or וְאֵלֶּיךָ יָשֻׁבִּימֶנְךָ.²²⁰ Yet it is precisely the same description which is applied, not to the so-called Book of the Covenant in Ex. 20: 23-23: 33, but to the Decalogue of Ex. 20: 1-17.²²¹ This would indicate that it is the Decalogue which, from a literary point of view, belongs in the covenant context of the E narrative, and that the same was the case with the parallel J version until the latter was changed by the substitution of the present collection of laws in Ex. 34: 14-26. If this is correct then it is clear, for reasons already explained above, that vv. 18-21 of Ex. 20 are

218 cf. also Beyerlin, Sinaitic Traditions, pp. 4, 15, 37 n.59.

219 On this literary unit and its assignment to E, cf. Beyerlin, Sinaitic Traditions, 15ff.

220 cf. Ex. 24: 3, 4, 8.

221 cf. Ex. 20: 1. It is to be noted that וְאֵלֶּיךָ יָשֻׁבִּימֶנְךָ is used also in Ex. 34: 1, 27f to describe the commandments of the J version of the covenant, which could be taken as further support for the view that the present text of Ex. 34: 14-26 has replaced a decalogue like that of Ex. 20. On the question of who, according to the tradition, actually wrote these words, either Moses or Yahweh himself, on which the tradition is not uniform, cf. Beyerlin, Sinaitic Traditions, p.56; S.J. de Vries, op.cit., p.533; McCarthy, Treaty and Covenant, p. 166 n.33.

misplaced and stood originally before the Decalogue in vv. 1-17 of the same chapter.²²² The displacement would have been the result of the incorporation of the so-called Book of the Covenant in Ex. 20: 23-23: 33 into its present position, and the desire to present the latter as the direct revelation of the divine will.²²³ However, although it is here argued that it is in fact the Decalogue which is to be seen as the original constituent of the J and E covenant narratives, there can hardly be any doubt that this nucleus was early supplemented with further laws giving a closer definition of what was required of those who stood in covenant with Yahweh.

222 cf. Beyerlin, Sinaitic Traditions, p.5 and n.27; McCarthy, Treaty and Covenant, p.154; so against Gerstenberger, Wesen und Herkunft, pp. 93f.

223 We are not here concerned with the view that Ex. 20: 18-21 is aetiological by nature, with the purpose of providing a theological foundation and justification for the existence of the office of covenant mediator. For this view cf. von Rad, "Problem of the Hexateuch", p.30; Beyerlin, Sinaitic Traditions, p.139; Kraus, Die prophetische Verkündigung des Rechts in Israel, ThSt 51, 1957, pp. 12ff (though for a criticism of some points in the argument of the last named, cf. Noth, "Office and Vocation in the Old Testament", in The Laws in the Pentateuch and Other Essays, p.247 and n.46; Fohrer, Überlieferung und Geschichte des Exodus, BZAW 91, 1964, p.102 n.2). The validity or otherwise of this view makes no substantial difference to what is being said here.

That the so-called Book of the Covenant was incorporated into its present context as a whole, or that it grew within its present context gradually from the addition of laws drawn from various sources, can hardly be decided with certainty.²²⁴ But whatever the process may have been, the presence of this collection of laws in this context witnesses to the increasing and spreading influence of Yahwism to dominate and govern every sphere of life. To this end laws, which originally applied to totally different spheres of life,²²⁵ were taken up and adopted into the covenant context.

224 The points which Cazelles, *op.cit.*, pp. 108ff, brings forward in support of his view of the unity of the Book of the Covenant can only support at the most the unity of the final form of these chapters within the Sinai pericope, but cannot tell if this Book of the Covenant received this semblance of unity before being brought as a whole into its present context, or if it is a result of literary editing of a collection of laws which were incorporated gradually at different stages.

225 This is not to say that none of the laws at present to be found within Ex. 20: 23-23: 33 originated within the sphere of Yahweh worship. The cultic laws of Ex. 23: 10-19 derive from this sphere, and also the prohibition of images and the altar law in Ex. 20: 23-26. On the original form of Ex. 22: 19 (EVV 20), cf. Alt, "Origins", p.112 n.73. Noth, *History*, p.104, holds that the religious and moral prohibitions in Ex. 22: 17ff (EVV 18ff) have most right to be considered elements of the original divine law of Israel'. By adopting Alt's emendation of v.19 (EVV 20), however, the connection with Yahwism is considerably weakened and, even if it is still held that this one verse did originate within the Yahweh cult, this does not necessarily mean that the same is true of the other laws of this group, since, in view of Gerstenberger's work, the form of a law cannot be taken alone as an indication of its origin in this cultic sphere.

(iii) The Decalogue as an original constituent of the Sinai covenant.

So far the laws of the Sinai pericope have been examined mainly from a literary point of view to see if there are indications that any of these laws have a literary connection with their context, and it has been concluded that such a connection can be established at least for the Decalogue. It is quite true that as a rule legal texts cannot be examined using solely the same criteria as for narrative texts, yet in the case of the Decalogue there is at least some positive evidence that it has a definite connection with other parts of the E narrative of the Sinai covenant, and was thus not introduced into this context at a later stage. It is true that the repeated use of the phrases *כָּל-דְּבַר-יְהוָה* or *כָּל-הַדְּבָרִים (הָאֵלֶּה)* which mainly constitute this connection, may be said to be the most flimsy evidence in favour of this view, yet there certainly are stronger indications that the Decalogue does belong in this context, and that from a very early age.²²⁶

226 It is not intended here to deal with the older view that the Decalogue of Ex. 20 originated among prophetic circles, as Mowinckel, *Le décalogue*, pp. 107ff, 160f, who considered that it arose among Isaiah's disciples and was probably never used in the cult. See also B. Duhm, *Israels Propheten* (2nd edit.), Tübingen 1922, p.39; Lods, *Israel*, pp. 315f. Such a connection of the Decalogue with prophetic circles had already been justifiably denied even before these writers by Gressmann, *Mose und seine Zeit*, Göttingen 1913, pp. 473ff, who pointed out that the social

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concerns so characteristic of the prophets were completely lacking in the Decalogue, and disputed that the ethical should a priori be considered later than the cultic in the history of religion. Nielsen, Die Zehn Gebote, pp. 102ff, concludes his study by proposing that the Decalogue, being a collection of law originally rather than a covenant document, is a kind of co-operative product of the northern priesthood and elders, familiar with the ancient Israelite legal traditions, and was intended as a basic guiding principle for every Israelite, for Israel as a whole, and for their representative the king. With the collapse of the northern kingdom in 722 B.C., the Decalogue lost its real historical background, but was taken up by circles of Levites who stand behind Deuteronomy, and, in the course of Levitical preaching, was made into a covenant document. This theory, however, depends to a large extent on Nielsen's very subjective reconstruction of the 'original' Decalogue, which will be dealt with below.

For this stage of the investigation, literary criticism, though still having some part to play, must give way to form criticism and the history of tradition. The immediate aim is clearly to try and determine as objectively as possible the original form of the Decalogue as a series of ten commandments. The very fact that the Decalogue occurs twice in the Old Testament, in Ex. 20 and Deut. 5, and the fact that there are differences between these two records of it, give clear justification to the assumption that in the Old Testament we do not now possess this original form, and so make necessary an attempt at some reconstruction. It is true that such a form as the Decalogue would easily have undergone many, and perhaps far-reaching, changes in the course of its history, which could theoretically include even a change from its original Sitz im Leben, yet, in so far as it is possible, conjectural emendation, addition or omission will be avoided here, since without the support of evidence, or at least the 'balance of probability', such changes can only lead to further confusion in the morass of conflicting opinions which are already current on this subject. Furthermore, no attempt will be made here to take account of all these views on the Decalogue, for, if Stamm, in 1961-62,²²⁷ could give over six pages of bibliography alone

227 Stamm, "Dreissig Jahre Dekalogforschung", ThR 27, 1961-62, pp. 189-239, 281-305.

on this subject, and that covering only the previous thirty years, it is clear that the hope of taking account of all these publications in anything of a scale less than that to which Stamm devotes his subject, would be a futile one. However, in spite of this, the attempt to find the original Decalogue must be made, since it is only on the basis of a reasonable reconstruction that it is possible to arrive at any conclusion concerning the origin, composition and Sitz im Leben of this form. Accordingly, the following is proposed as the original Decalogue, with its introduction :²²⁸

I am Yahweh thy God, who brought thee out of the land of Egypt.

1. Thou shalt have no other gods before me.
2. Thou shalt not make to thyself a (graven) image.
3. Thou shalt not take my name in vain.
4. Remember the Sabbath day to keep it holy.
5. Honour thy father and thy mother.
6. Thou shalt do no murder.
7. Thou shalt not commit adultery.
8. Thou shalt not steal a man.
9. Thou shalt not bear false witness against thy neighbour.
10. Thou shalt not covet thy neighbour's house.

228 For the reasons for this reconstruction, cf. Additional Note II to Chapter 3, below pp. 396ff.

This reconstruction obviously differs from that of Nielsen, not only in the understanding that each member of the original Decalogue need not necessarily have been of equal metrical length, but also in the conclusion that it is impossible to divorce it from its setting as speech of Yahweh.²²⁹ Any attempt to break this connection and thus view the Decalogue as a collection of law with an authority other than Yahweh behind it clearly involves so many changes in the text that the validity of the whole approach is automatically suspect.²³⁰ But, having said this, it is not implied that all the separate commands of the Decalogue were always conceived of as issued on the authority of Yahweh. In view of Gerstenberger's researches, it is highly likely that many of these commandments originated elsewhere than in the sphere of Yahweh worship.²³¹

229 Such a conclusion is not necessarily dependent exclusively on the reconstruction of the form of the 3rd commandment, as Nielsen, Die Zehn Gebote, p.99, thinks; cf. also Fohrer, "Das sog. apodiktisch formulierte Recht", p.65. That Yahweh should speak of himself in the 3rd person is not unusual in the Old Testament, cf. Koch, *op.cit.*, p.36, and, furthermore, finds parallels in extra-biblical literature, cf. Baltzer, Das Bundesformular, p.29 n.4.

230 Nielsen himself, Die Zehn Gebote, p.69, does indeed emphasize the strongly hypothetical character of his reconstruction.

231 Thus the 5th-10th, and probably also the 4th, could well have originated as clan ethic.

But what is implied is that the bringing together of these commandments to form a Decalogue was undertaken from the beginning with the intention of presenting the resulting compilation as the divine will for Israel. Thus, it is here maintained that the Sitz im Leben of the Decalogue as a whole was never anything other than what is now apparent in the Sinai pericope in Exodus: it belongs to the covenant festival and was proclaimed as the revealed will of Yahweh for his people.²³²

232 It was the opinion of Mowinckel, Le décalogue, pp. 141ff, that the decalogue type (not the Ex. 20 Decalogue, which he argued to have originated in the circle of Isaiah's disciples and to have had no cultic use, cf. ibid., pp. 107ff) originated in the old leges sacrae governing admission to the sanctuary. (It should be emphasized that in ascribing the origin of the decalogues to such Entrance Toroth, Mowinckel has in mind the laws of Ex. 34: 14ff and the parallels to this collection in the so-called Book of the Covenant. As far as I can see, Mowinckel does not include the Ex. 20 Decalogue in this connection, but thinks of the latter simply as a rule of discipline among the disciples of Isaiah which originated in that context, cf. ibid., pp. 156ff. Thus, much of what von Rad has to say, "The Problem of the Hexateuch", pp. 24f, is really beside the point as far as Mowinckel is concerned.) Along with the growing idea that the people as a whole was a cultic community such collections of laws, which were early arranged in groups of ten, would have come to be regarded as conditions of membership of the covenant people and so would naturally have gained a place within the covenant festival. It is this final stage which is reflected in the Sinai pericope in Exodus. While the existence of these Entrance Toroth, especially in Pss. 15, 24, is now generally admitted, this is not the case with the

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proposed derivation of the type of the decalogues from this sphere, cf. Koch, "Templeeinlassliturgien und Dekaloge", in Studien zur Theologie der alttestamentlichen Überlieferungen (von Rad-Festschrift, edit. R. Rendtorff und K. Koch), Neukirchen 1961, pp. 45ff; Gerstenberger, Wesen und Herkunft, pp. 69f, 143, who emphasize the originality of the personal form of address, as against the impersonal formulation of the Entrance Torah. For the process which Gerstenberger envisages as having taken place, whereby the Entrance Torah and the prohibitions derived ultimately from the clan order, cf. above n.186; cf. also Zimmerli, "Ich bin Jahwe", in Gottes Offenbarung, pp. 39f.

It was for this context that it was designed, and it was within this context that it developed and grew to its present shape.²³³

What has been said so far makes all the more urgent the question of the time of origin of the Decalogue. This is a problem which has been approached by a variety of routes, none of which has won unanimous support. Once again, in view of the abundant and up-to-date literature on the question, no attempt will be made here to account for every shade of opinion, instead of which our main concern will be to point out the main issues involved and attempt to ascertain the most probable view. First of all, those arguments in favour of a late dating, by which is here meant a post-settlement dating, may be mentioned. These can be classified under two heads:

- (a) arguments from the content of the Decalogue; and
- (b) arguments from the form of the Decalogue.

In the case of (a) it is sufficient simply to agree with Rowley²³⁴ in denying that the prohibition of images and the command to observe the Sabbath can be used in support of a late date for the Decalogue.

233 On this process, cf. Reventlow, Gebot und Predigt, pp. 21ff, 40.

234 "Moses and the Decalogue", pp. 20ff, which also includes a very full bibliography.

In the case of the prohibition of images, the fact that images do in fact appear to have been set up certainly does not presuppose that the prohibition of them had not been given,²³⁵ and in the case of the command to keep the Sabbath, even if this is to be connected with the Babylonian shapattu, and therefore with the phases of the moon rather than with a weekly day of rest, this is not incompatible with what was given above as the original form of the Sabbath command and so cannot be taken to show that this command, in the original Decalogue, must come from a later time when the Sabbath in Israel had become a weekly day of rest.²³⁶ Those who argue (b) against the early origin of the Decalogue on the basis of its form, do so in two ways:

235 There is anyway probably no evidence of Yahweh images having been accepted in the official Yahweh cult. Even if the bull calves which Jeroboam I set up at Bethel and Dan (cf. 1 Kings 12: 28ff) were images of Yahweh, which is very doubtful (cf. Rowley, "Moses and the Decalogue", p. 23 n.4), Jeroboam's action is probably the butt of the condemnation in Ex. 32, cf. Noth, Überlief. des Pent. pp. 157ff.

236 cf. Rowley, "Moses and the Decalogue", pp. 27ff., to whose bibliography may be added: Reventlow, Gebot und Predigt, pp. 46ff; Nielsen, Die Zehn Gebote, pp. 80f; Keszler, "Die literarische, historische und theologische Problematik des Dekalogs", VT 7, 1957, p.10 - of whom the last two argue for the Kenite origin of the Sabbath.

on the one hand, it is held that the Decalogue, since it covers a wide field of action (so called a Gesamtreihe), must, from the point of view of the history of form, stand at a later stage than those series of apodictic law which deal with one particular subject, such as Lev. 18: 7ff (so called a Sonderreihe);²³⁷ on the other hand, it is also argued that the short series (Kurzreihe) of apodictic laws, consisting of three or four members, must be earlier than those series, such as the Decalogue, consisting of ten members.²³⁸

237 cf. Alt, "Origins", pp. 122f; followed by Koch, Formgeschichte, pp. 22f.

238 Although Gerstenberger, Wesen und Herkunft, p.86 n.1. contests the view of Koch, Formgeschichte, p.23, that the single command stands at the beginning of the development, he himself argues (ibid., pp. 86ff, 138) that the number 10 or 12 of members is foreign to series of apodictic law, has its origin in the cult, and probably is exilic. Series of two or three are taken to have the most claim to originality; cf. also Gese, "Der Dekalog als Ganzheit betrachtet", pp. 127ff, who sees pairs of commands as characteristic of apodictic law. As applied to the Decalogue this involves taking the first two commands together (which is supported also by the study of Zimmerli, "Das zweite Gebot", pp. 234ff); the last two together (both referring to the וְיָצַד and protecting his rights and possessions); the 3rd and 4th together (both dealing with contact with the holy); the 5th and 7th together (the one concerning the protection of one's own family, and the other the protection of another person's family); and the 6th and 8th together (the one protecting the life of a man and the other his freedom).

But against the value of these arguments two points have to be borne in mind: in the first place, it cannot be proved that the Gesamtreihe necessarily comes later than the Sonderreihe in the history of the form. The development could just as easily have been the other way around,²³⁹ while similarly the Kurzreihe may also represent a later stage in the history of the form.²⁴⁰ In the second place, supposing that the view of Alt and others on the course of development of the form is the correct one, this would provide only a relative date for such forms as the Decalogue within the particular form being discussed. The possibility of attaining an absolute date could only exist after a certain historical period could be shown to be the one in which this form appeared. With Alt's view of the origin of apodictic law within the Yahweh covenant community this possibility was present, but since Gerstenberger has divorced the origin of apodictic law from the Yahweh faith and has shown its Sitz im Leben to be in the nomadic clan, the attempt to fix an absolute chronology for the history of development of this form has become even more suspect. There are no certain form-critical arguments which can give an absolute date, either before or after the settlement, for the appearance of a form like the Decalogue.

239 cf. Stamm, "Dreissig Jahre", p.234; Stamm and Andrew, op.cit., pp. 38f; and cf. also the view of Rabast quoted in Nielsen, Die Zehn Gebote, p.56.

240 cf. the view of Rabast referred to in the previous note.

On the other side, various means have been exploited in the attempt to show the Mosaic origin of the Decalogue, or at least its origin in Mosaic times. By some²⁴¹ this is done by pointing to the work and personality of Moses as the only possible background for the appearance of the Decalogue. But since it is the very work and personality of Moses which is a matter of considerable dispute,²⁴² this line of approach cannot be relied on too heavily. Others adopt the line of refuting arguments brought against Mosaic authorship of the Decalogue,²⁴³ but such a negative approach definitely requires something more positive before its object can be accepted as having been demonstrated; for in view of the abundance of clearly non-Mosaic legislation in the Sinai pericope it cannot be held that in the case of the Decalogue the burden of proof is completely on those who take it to be of

241 cf. e.g. Volz, Mose und sein Werk, pp. 18ff, 23ff.

242 cf. e.g. The treatment of Noth, Überlief. des Pent., pp. 172ff; and the criticism of Bright, Early Israel in Recent History Writing, pp. 106ff.

243 Such is the approach of Rowley, "Moses and the Decalogue".

late origin. One other main argument²⁴⁴ in favour of a pre-settlement dating of the Decalogue must be mentioned. This is the one adopted by Mendenhall²⁴⁵ and especially by Beyerlin,²⁴⁶ and is based largely on a view of the structure of the Decalogue as a whole. According to this view, the form of the Decalogue corresponds to an international treaty form current in the Late Bronze Age, and known from texts discovered at the Hittite capital of Boghazköy.

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- 244 A different type of argument has been adopted by Sellin, Geschichte des israelitisch - jüdischen Volkes 1, 1924, p.83; and Auerbach, Moses, Amsterdam 1953, pp. 202f., who hold that the 10th commandment was originally 'you shall covet no house', i.e. the commandment rejects, from a nomadic point of view, the things of the Kulturland. However, even if this conjectured reconstruction of the commandment was correct, it would still have to be explained why there is no similar rejection of, e.g., agriculture and, furthermore, such an original as is here conjectured could also have had its origin at a later time in Rechabite circles, cf. also I. Lewy, "Auerbachs neuester Beweis für den mosaïschen Ursprung der Zehngebote widerlegt", VT 4, 1954, pp. 313ff. The latter ascribes the authorship of the ten commandments to the Yahwist whom he identifies with Nathan
- 245 "Covenant Forms in Israelite Tradition", BA 17, 1954, pp. 50ff; cf. also Mendenhall's article "Covenant", IDB vol. 1, pp. 718ff.
- 246 Origins and History of the Oldest Sinaitic Traditions, pp. 49ff.

This treaty form has already been examined with regard to its constituent elements,²⁴⁷ and so we may proceed here to a direct comparison of the form with that of the Decalogue. At first sight, the following correspondences appear: titulature ('I am Yahweh thy God'); historical prologue ('who brought thee out of the land of Egypt'); and stipulations (the commandments) which means that the remaining two elements: the list of divine witnesses and the curse and blessing, are missing. But even apart from these omissions²⁴⁸ difficulties still remain with at least two of the other three elements which have been taken as true parallels to the Hittite form. In the first place, the phrase 'who brought thee out of the land of Egypt', if it is original in the Decalogue, should be taken rather as part of the introductory formula 'I am Yahweh thy God'. The two parts belong together and serve to identify the authority behind the commands which are to be promulgated.²⁴⁹

247 cf. above, pp. 211ff.

248 The procedure of Mendenhall and Beyerlin in using other parts of the Sinai pericope, outside the Decalogue itself, to fill the gaps made by these omissions, appears to me to be an extremely dubious one. In the case of both the treaty and the Decalogue we are dealing with a particular form, and I cannot see that it is legitimate form-critical method to cull elements from different units of the Sinai pericope in order to supplement the form of the Decalogue albeit they deal in their present context with the same general subject.

249 cf. McCarthy, Treaty and Covenant, pp. 160f.

Furthermore, it is exceedingly unlikely that a genuine parallel exists between the commandments of the Decalogue and the treaty stipulations. The latter are directed solely towards the treaty relationship being established, while the former, in the second half of the Decalogue, govern the relations which are to exist between the Israelites themselves.²⁵⁰

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- 250 cf. Gerstenberger, Wesen und Herkunft, pp. 100ff. This difference cannot be mitigated by arguing that the covenant of Yahweh was in effect a covenant with each individual Israelite clan, as Mendenhall, "Ancient Oriental and Biblical Law", p.39; idem, "Covenant Forms", p.64. Yahweh's covenant is always with the people Israel, cf. Gerstenberger, "Covenant and Commandment", p.47. A further objection to understanding any contact between the Decalogue and these Hittite treaties in the matter of the apodictic form of law used in both is the fact that in the treaties the apodictic law is practically confined to those treaties between the Hittites and Asia Minor, while the treaties with the Syrian states, which are the very ones with which Israel could have had contact, hardly show this apodictic form at all, cf. McCarthy, Treaty and Covenant, pp. 36f. McCarthy explains this by pointing to the special family relationship which seems to have existed between the rulers of Hatti and the rulers of these states of Asia Minor with whom the apodictic form is used. This would not accord badly with the explanation of the origin of apodictic law given by Gerstenberger; cf. also Gese, "Der Dekalog als Ganzheit betrachtet", p.124; and for a critical evaluation of the parallels which have been drawn between specific demands in the treaties and in the Decalogue, cf. Nötscher, "Bundesformular und 'Antschimmel'", pp. 207ff.

But even the very first element which is brought forward as a parallel is not strictly so: the formula 'I am Yahweh thy God' is hardly the same as 'Thus says NN....' which is to be found in the treaties.²⁵¹ In view of all this it appears very doubtful that a parallel does exist between the Decalogue and the Hittite treaty form;²⁵²

251 cf. H. Seebass, Review of Beyerlin, *Herkunft und Geschichte der ältesten Sinaitraditionen*, in ZDPV 78, 1962, p.186.

252 So with Schmitt, Der Landtag von Sichem, pp. 98f (who, however, apparently sees a parallel with the Hittite treaty form in the 'cultic decalogue' of Ex. 34); Nötscher, "Bundesformular und 'Amtsschimmel'", pp. 195, 207f; Fohrer, "'Amphiktyonie' und 'Bund'", ThLZ 91, 1966, col. 895; cf. also McCarthy, "Covenant in the Old Testament", pp. 221f, 230; so against Moran, "Mose und der Bundesschluss am Sinai", Stimmen der Zeit 170, 1961/62, pp. 122ff, 129; Lohfink, Das Hauptgebot, pp. 98, 111. Reventlow, "Kultisches Recht im A.T." pp. 275ff, attempts to defend the parallel between the Decalogue and the Hittite treaty form by arguing that the latter represents a late stage in the history of the form and that its Urform may have taken the form of a treaty between the god of the sovereign and the vassal or its god. However, the cultic elements of the present treaties: deposit in a sanctuary, gods as witnesses etc., which Reventlow mentions to support his theory do not necessarily presuppose any such Urform as Reventlow conjectures.

and even if, in spite of everything, the comparison is pressed, it is far from clear that it would be of much help in assigning a particular date, either pre- or post-settlement, to the time of origin of the Decalogue.²⁵³

So it may be said that so far the attempts at assigning a date to the Decalogue have resulted in a stalemate. The methods which have been touched on have not succeeded in providing a clear and definite indication on whether the Decalogue, in its original form, belongs to the pre- or post-settlement period. Yet in spite of this it is possible that some more general considerations may sway the balance in favour of a pre-settlement date. In the first place, the very basis of Old Testament law, and the characteristic which distinguishes it from all other, is the presupposition of the exclusive relation of Yahweh and Israel.²⁵⁴ This is not to say that this was always the case with every particular law in the Old Testament, for Israel clearly adopted much law from her environment;

253 The danger of using literary form as an aid to absolute chronology has already been emphasized, cf. above, pp.149f. In this particular case the danger is more acute, since, although some differences in form and emphasis between the Hittite and later Assyrian treaties may be detected, they stand in the one treaty tradition.

254 cf. Noth, "The Laws in the Pent", pp. 51f.

but in its Old Testament context it is concluded in a framework consisting of this presupposition. Secondly, we have already seen²⁵⁵ that as far as the Sinai covenant was concerned it was always a covenant by which Israel was bound by certain obligations if this covenant was to endure. At Shechem, at least as early as the beginning of the post-settlement period, Israel's obligation to serve Yahweh alone seems to have been expressed in a symbolic gesture of renunciation of foreign gods,²⁵⁶ while not only in Josh. 24 but also in other passages a close connection is maintained between Israel's covenant with Yahweh and the prohibition of other gods.²⁵⁷ With these observations there may be coupled the further consideration that the original obligations of the covenant between Yahweh and Israel, or, for that matter, of any treaty or covenant, must be those which directly involve the two parties to the treaty or covenant.²⁵⁸ Furthermore, the connection between the theophany of Yahweh and the revelation of his will has already been mentioned,²⁵⁹ and if the theophany is to be understood as part of Israel's religious experience at any period of her history, it certainly cannot be denied to the Sinai event. In view of this it cannot reasonably be denied that at least the first three commands of the Decalogue belonged to the

255 cf. above pp. 145ff.

256 cf. above pp. 184ff.

257 cf. e.g. Ps. 81: 9ff (EVV 8ff) and above, pp. 258ff.

258 cf. Gerstenberger, Wesen und Herkunft, p.109

259 cf. above pp.25ff and Beyerlin, Kulttraditionen, pp. 42f; Zimmerli, "Ich bin Jahwe", p.40.

original Sinai covenant, and were composed as an express definition of the relationship which was there set up. They have direct reference to the covenant between Yahweh and Israel and provide the terms on which this covenant will stand. The rest of the Decalogue commandments, however, probably did not originate in this context. They have no specific Israelite or Yahwistic reference in their original form and would suit well in the kind of society which Gerstenberger sees as the original Sitz im Leben of apodictic law. This is true of the Sabbath commandment as well as the rest.²⁶⁰

260 cf. von Rad, O.T. Theology, 1, p.16 and n.3. The Sabbath has no original connection with Yahwism and was not a cultic festival as, e.g. the Feast of Tabernacles or Weeks, which would explain why it could be included in the Decalogue which is addressed to the laity in their everyday life, cf. von Rad, *ibid.*, p.193. Nielsen, however, Die Zehn Gebote, pp. 93f., takes the first four commandments of the Decalogue together as coming from the pre-settlement period. His inclusion of the Sabbath commandment, however, is based on his agreement with the theory of the Kenite origin of Yahwism and the Kenite origin of the Sabbath. Fohrer, on the other hand, "Die sog. apodiktisch formulierte Recht", pp. 62ff, argues that the Decalogue is composed of commandments culled from three different series: the first three and the last two commandments are taken from a series of apodictic laws, each member having four stresses; commandments 6, 7 and 8 are from a series of which each member has two stresses (confirmation of this is seen in Hos. 4: 2 and Jer. 7: 9, where only these particular prohibitions are mentioned, i.e., these prophets derived them from the same series as did also the compiler of the Decalogue); and the 4th and 5th commandments from a series in which each member has three stresses.

Note 260 continued

However, it appears to me to be difficult to divide up the Decalogue (or, rather, a conjectured original form of it) in this way (not to mention explaining how it was put together again). Such a division cuts across the subject matter with which the commandments are concerned, e.g. the first group is said to be composed of prohibitions dealing with obligations to Yahweh and the neighbour, but the prohibitions of the second group also deal with the neighbour even if he is not explicitly mentioned. Also the two commandments of the third group may belong together in that both have a positive formulation; but a case can also be made for taking the 3rd and 4th together (as Gese, cf. above n.238) and not the 4th and 5th.

So the question is, when can these commandments be reasonably understood to have been connected with those others which took their origin within the context of the Yahweh covenant community at its foundation at Sinai. There is nothing in the last seven commandments of the Decalogue which points to an origin in the post-settlement period. Both in form and content they are compatible with a nomadic or semi-nomadic way of life in which society they, along with many others, could have claimed validity.²⁶¹ This, taken along with the observation that ethical law of this nature was early used in a cultic, covenant context,²⁶² leads up to the conclusion that although theoretically the primary demands of the covenant between Yahweh and Israel were those which directly referred to these two parties to the covenant, yet the kind of ethical law which we find in the last seven Decalogue commandments, for which Gerstenberger plausibly assigns an original Sitz im Leben in the nomadic sphere, was taken up into the covenant context in the pre-settlement period. Already early in the post settlement period, vv. 25-27 of Josh. 24²⁶³ show that a body of law was

261 cf. also Newman, The People of the Covenant, p.184 n.79, who conjectures that the laws of the Decalogue were drawn from a larger body of available apodictic law, though he thinks that this happened in the time of Jeroboam I, the ten laws being chosen to correspond to the ten tribes of the northern kingdom.

262 cf. above n.112

263 Note the reference in v.26 to $\text{לְעֵינֵינוּ} \text{לְעֵינֵינוּ}$ and cf. above p.340

proclaimed to the covenant community which did not necessarily have any direct reference to the relations between the two parties to the covenant,²⁶⁴ and, furthermore, there is no hint of the first three commandments of the Decalogue having existed independent of the last seven in this context. One may agree that the coupling of covenant stipulation and social prohibition is secondary,²⁶⁵ but only in the sense that while the former is directed to and was composed for the actual covenant relation, the latter had an existence in a social framework prior to being taken into the covenant context at a very early stage. This understanding may also help in elucidating the question of why some of the Decalogue commandments have motivating clauses while others do not.²⁶⁶

264 The close connection between cult places and legal activity which is often found in the Old Testament is also relevant here, cf. F. Horst, "Recht und Religion im A.T.", Gottes Recht, München 1961, pp. 266f.

265 Gerstenberger, Wesen und Herkunft, p.109.

266 Thus the prohibition of images and the worship of other gods has a motivating clause because the prohibition was a new one coming into force with the adoption of Yahweh worship, and thus required an explanation. On the other hand, a prohibition such as the 6th commandment would have been one of the 'time-honoured rules of law' which required no explanation. The Sabbath command with its motivation constitutes a difficulty, for according to our view this was also an ancient command with no original relationship to Yahweh worship. But since this command is about the only one of the last seven Decalogue commands which probably had to undergo a gradual change in significance with

Note 266 continued

its incorporation into the Yahwistic covenant law, a ready explanation is provided for its being the only one of these laws with such a motivation. Hammerschaimb, "On the Ethics of the O.T. Prophets", VT Suppl 7, 1959, p.101, thinks that the motivating clauses are best explained by the 'tendency' to account for or excuse what has been borrowed elsewhere', but it is not clear how this would apply to the prohibition of images and the worship of other gods.

At any rate, the process which led to this 'secondary' coupling of covenant law and social prohibition has been adequately described by Gerstenberger:²⁶⁷ since social acceptability has always been the prerequisite for participation in cultic activity, moral requirements would have been 'very soon' adopted into the cultic sphere. Thus, while we would agree that in the matter of the Mosaic origin of the Decalogue it is impossible to get from the posse to the esse,²⁶⁸ it nevertheless appears most probable that the Decalogue is a pre-settlement collection of laws, some of which had long been in use but were now drawn into the covenant context.

267 Gerstenberger, "Covenant and Commandment", p.51. In this article Gerstenberger's views seem to be more moderate than those expressed in Wesen und Herkunft on the coming together of covenantal and social law within the covenant context. The views expressed on this subject in Wesen und Herkunft (cf. e.g. pp. 107f n.5, with p.143), however, seem somewhat inconsistent.

268 So Bentzen, Introduction, vol. 2, p.55.

- (c) The Establishment in Judah of the Covenant Faith founded at Sinai.

Our aim so far has been to attempt to demonstrate (a) the existence of a covenant festival in Judah of the monarchy period consisting of the two elements of theophany and the proclamation of law; and (b) that the covenant as celebrated in pre-settlement times was also composed of these two elements: theophany and proclamation of law. The question which now arises is: can one also understand a continuity in covenant worship from pre-settlement days, into Judah of the judges period, and from there into Jerusalem and Judah of the monarchy period; or does the evidence force us to the view that the covenant worship of Yahweh came to Judah in the monarchy period indirectly via Ephraim (Josh. 24) of the judges period, and David who united north and south under his own rule and brought the ark to Jerusalem?

It has been conjectured²⁶⁹ that in bringing the ark up to Jerusalem, David intended to make his chosen capital cultically acceptable to the Israelite tribes. Jerusalem had hitherto been a Jebusite city where an Israelite would not willingly pass the night.²⁷⁰

269 cf. Noth, "The Laws in the Pentateuch", in The Laws in the Pentateuch and Other Essays, pp. 30f; idem "Jerusalem and the Israelite Tradition", op.cit., pp. 132ff; Beyerlin, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 32f.

270 cf. Judg. 19: 11f.

As a 'city of foreigners' it would have possessed none of the distinctive Israelite traditions which made places such as Gilgal, Shechem, Bethel and Shiloh such important sanctuaries in Israel's worship of Yahweh. This would clearly have constituted a grave obstacle to David's political aspirations, for he was really faced with a double problem. On the one hand his capital would have to be acceptable to Israel as a whole, but, on the other hand, to incorporate it wholly within Israelite territory and to turn it into an Israelite city would have defeated his whole object. For David's purpose was not simply to have Jerusalem acknowledged by the tribes, but also to retain it as the 'City of David', an enclave distinct from both Israel and Judah over which he and his descendants would have the legal right to rule. In order to achieve this double aim a compromise solution had to be worked out, and to this end the ark was brought up to Jerusalem. Although the importance of the ark should not be overestimated,²⁷¹ there can be no doubt that it

271 The time and place of origin, and the precise significance of the ark, are all questions on which there is a remarkable lack of unanimity up to the present. It has been argued that it originated in the pre-settlement period as a portable sanctuary, for which Arabic parallels can be found (cf. Albright, FSAC, with refs.; Newman, The People of the Covenant, pp. 55f), while on the other hand its origin has been put in Palestine after the settlement when it was a symbol of an anti-Philistine federation of tribes (so Maier, Das altisraelitische Ladeheiligtum, BZAW 93, 1965, pp. 58ff). While it is probably safe to say

Note 271 continued

that it is now generally agreed that there was only one ark (for the earlier view of a plurality of arks, cf., e.g., Graham and May, Culture and Conscience, pp. 261f.) the actual significance of it is still disputed, not to mention its relation to the Tent of Meeting. It has been taken as the throne of Yahweh, or as a container for the law-tablets, while the view that it was simply a war palladium and not a sanctuary for all Israel has also been strongly advocated (for the last, cf. Smend, Jahwekrieg und Stammesbund, pp. 56ff, 93f). For a discussion of some of these views, cf. Clements, God and Temple, pp. 28ff; von Rad, "The Tent and the Ark", in The Problem of the Hexateuch and Other Essays, pp. 103ff. Because of these uncertainties of interpretation it seems inadvisable to associate particular Israelite traditions exclusively with the ark, by saying, for example, that in bringing the ark up to Jerusalem, David effected the cultic deposit there of the Exodus and Sinai traditions. That these traditions were, however, fostered at the Jerusalem sanctuary we tried to show above, but this does not mean that these traditions found a place in the sanctuary simply by virtue of the presence there of the ark. Thus, in discussing the importance of the bringing of the ark up to the capital it is difficult to go beyond generalities. Newman, The People of the Covenant, pp. 61ff, 125f, 151, 161, argues that the ark was closely associated with the E covenant legend, but that this connection was broken when the ark was captured by the Philistines. David's sole connection with north Israelite cultic tradition was in having as priest Abiathar, a descendant of Eli, at whose suggestion the ark, now just a northern symbol, was brought to Jerusalem, while the E covenant legend stayed in the north.

was an object of particular veneration among the Israelite tribes, and that the transportation of it to Jerusalem would have had the effect of endowing its new abode with a particular sanctity in Israelite eyes. But on the other hand, David does not seem to have carried out a policy of full-scale 'Israelitizing' of the city, but left the Jebusite population, and perhaps also the priesthood,²⁷² as it was.

However, it is reasonable to assume that in the time of David there was a process of transplanting to Jerusalem specifically Israelite traditions of which we have already found evidence at a later period. But that these traditions had hitherto been specifically northern one is a less certain assumption. It is clear enough that the ark was a cultic symbol of particular sanctity among the northern tribes, but to associate it exclusively with, for example, the covenant tradition is a questionable procedure, especially since the presence of the ark at Shechem can be strongly contended,²⁷³ and also since it apparently

272 It has been argued by Bentzen ("Zur Geschichte der Šadokiden", ZAW 51, 1933, pp. 173ff) and Rowley ("Zadok and Nehushtan", JBL 68, 1939, pp. 113ff; "Melchizedek and Zadok", in Bertholet-Festschrift, pp. 461ff) and C.E. Hauer ("Who was Zadok?", JBL 82, 1963, pp. 89ff) that Zadok was a member of the old Jebusite priesthood. But against this cf. Albright, Archaeology and the Religion of Israel, 3rd edit. Baltimore 1953, p.110, who thinks that Zadok was a descendant of Aaron; cf. also Gunneweg, Levitiden und Priester, pp. 98ff.

273 cf. above pp. 37ff.

lay neglected at Kiriath-jearim for a long time before being brought to Jerusalem.²⁷⁴ Furthermore, at least in the present form of the Old Testament tradition,²⁷⁵ the associations of the ark with the conquest are as strong as those with the covenant. Thus we have no definite indication of precisely whence, when or how the Exodus and Sinai traditions were introduced into the worship of the Jerusalem temple. Certainly the impression one receives is that these must have been northern traditions, but it is to be asked if this impression is not due simply to the fact that no such tradition as Josh. 24 has survived from the period of the judges as the tradition of a southern sanctuary such as Hebron. This may at first appear as a purely hypothetical form of argument with the purpose of demonstrating a view which has no real evidence to support it. But the idea that the Jerusalem cult did in fact take up traditions which were as much southern as northern has two major considerations in its favour. First of all, Jerusalem had to be made cultically acceptable to the south as well as to the north. It was an alien enclave to both parts of the Davidic kingdom and so could be party to neither side in either political or cultic matters if it was to become acceptable to both as a capital.

274 cf. above p.47 n.81

275 Maier (cf. above n.271) manages to dissociate the ark completely from the conquest stories and put its place of origin at Shiloh.

In the second place, there are links, which certainly are rather tenuous but none the less important for that, which connect Sinai (or rather Kadesh) directly with the southern part of the kingdom, more specifically with Hebron, which can support the argument that Judah, while being completely independent of the northern tribes in the period of the judges, yet partook of a common Yahweh faith with those northern tribes in that period. We have seen that in the monarchy period the Exodus and Sinai traditions were traditions preserved in Judah and Jerusalem, and what we wish to attempt to show is that these traditions came here, not via the northern tribes in the time of David, but direct from Kadesh to Hebron and from there to Jerusalem. This is not to say, of course, that the particular form in which these traditions were expressed in the northern part of the kingdom contributed nothing to the way they were cultically celebrated in the Jerusalem sanctuary, but what is here maintained is that Judah in the period of the judges, in spite of its isolation from the rest of the tribes, had its own traditions of Exodus and Sinai which were brought directly from Kadesh.

We do not here need to take account of all the problems posed by Noth in particular²⁷⁶ in his evaluation of the

276 Noth, Das Buch Josua, pp. 11f, 16, argued that Josh. 1-12 is composed of a series of aetiological stories together with two war narratives, which have no literary connection with the JE strands of Gen.-Nu. Against Noth, it was argued by Bright, "Joshua", IB vol. 2, p.544, that three points are in favour

Note 276 continued

of JE underlying the conquest story of Joshua: (a) J and E constantly look forward to the gift of the land; (b) JE in Num. told of the settlement of the east Jordan tribes; (c) Nu. 25: 1-5 leaves Israel at Shittim, and it is here that Josh. 2: 1 picks up the story. However, the first two points do not constitute an argument against Noth, for the latter wholly agrees with them. What Noth does say is that JE must originally have told of the conquest of west Jordan but since these old strands were incorporated within the literary framework of the document P, the whole emphasis of which was on Sinai and which had no interest in the conquest (Noth denies that P is to be seen in Joshua, with which Bright agrees, IB 2, p.544), the JE documents had to be curtailed in order to fit into this framework formed by P whose narrative ended with the death of Moses. Thus there results the present torso-like appearance of JE (cf. Überlief.Stud., p.88 n.2, pp. 180f, 210; Überlief. des Pent., pp. 7ff, 16, 77f). Thus it is only the third point which Bright makes which has any validity in his dispute with Noth. But it should be noted that the reference to Shittim in Nu. 25: 1 may not be original since the rest of the section (vv. 1-5) deal with Baal Peor (cf. Noth, Überlief. des Pent., p.35 n.125). And, quite apart from this, if the aetiological sagas of Josh. 2-9 reflect the conquest tradition of Benjaminites invading from east Jordan as Noth argues, or if they are the conquest tradition of any group coming in from east Jordan, Shittim represents a most suitable departure point from east Jordan, and would thus not necessarily depend on a connection with the place where the JE narrative left the Israelites in Nu. 25. Thus, against Bright, we would agree in general (for one exception to this cf. further) with Noth's judgement of the literary independence of the conquest narratives of the first half of Joshua from the JE narrative. On the other hand, Noth's judgement of the interest and extent of the P narrative, following which

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the JE narrative was curtailed, is something on which we cannot agree. For if style and speech can no longer be taken as reliable criteria for distinguishing the presence of P (cf. Noth Überlief.Stud., p.184), it is difficult to see on what basis P may be discerned at all. Thus we would prefer to follow Mowinckel in arguing (a) that P does have a conquest narrative, and the main interest of this document being in the Sinai episode may explain why P did not have very much on the conquest but was content simply to edit the old sources, and (b) that P elements, both looking forward to (e.g. Nu. 13:2; 20: 12; 22: 1; 27: 12-23, 32: 2, 18, 19, 28, 32, 33b) and telling of the conquest (additions to Josh. 3-4; 5: 10-12; 9: 15b, 16-21; ch. 12 etc.) are to be found (cf. Mowinckel, Tetrateuch-Pentateuch-Hexateuch, pp. 52ff, 55ff, 58ff). This leaves the question open again on whether there is a JE conquest narrative, and here again we would follow Mowinckel (*ibid.*, pp. 13ff, 16f, 20ff, 24ff etc), that the J review of the conquest (Mowinckel, *ibid.*, pp. 7f, denies that an E document ever existed. What is generally taken as E constitutes the addition to the basic J narrative of those differences from the latter which arose as a result of the further oral transmission of the J tradition at a stage after the latter had also been committed to writing) is to be found in Judg. 1, with its parallels in the second half of the Book of Joshua, which joins on to the story of the crossing of the Jordan and the conquest of Jericho presupposed in Josh. 2 with its conclusion in Josh. 6: 25 (as distinct from the aetiological narrative of the rest of Josh. 6). (In Überlief. Stud., p.211, Noth admits the possibility of considering Judg. 1 and Josh. 15: 13-19 as parts of the conquest narrative of the old Pentateuch sources, but says that the probability of this being the case is not great and so prefers to think of these passages simply as isolated traditions.)

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On the question of the contribution of archaeology to the study of the conquest tradition cf. Bright's criticism of Noth's scepticism in Early Israel in Recent History Writing, pp. 87ff; and Noth's reply: "Der Beitrag der Archäologie zur Geschichte Israels", VT Suppl 7, 1960, pp. 271ff; idem, "As One Historian to Another", Interpretation 15, 1961, pp. 61-66; and for some pertinent remarks on the German-American aetiological dispute, cf. Mowinckel, Tetrateuch-Pentateuch-Hexateuch, pp. 79ff.

conquest traditions of the Old Testament. Whether or not one agrees with Noth that the original JE conquest narrative was composed mainly on the basis of the traditions of the mid-Palestinian tribes,²⁷⁷ it is nevertheless clear that the settlement of the Israelite tribes was not the straight-forward process which a superficial perusal of the Old Testament traditions might reveal. There is, in fact, sufficient indication in the traditions to support the view that the settlement in Palestine was carried through not only from the east but also directly from the south.²⁷⁸ The traditions with which we are concerned here are those dealing with Caleb's conquest of Hebron.²⁷⁹

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- 277 Noth, Überlief. des Pent., pp. 54ff, argues that enough is preserved of the JE conquest tradition, within the framework of P in the later chapters of Numbers, to show that the original JE conquest narrative took its starting point from the southern end of east Jordan, going northwards and then west over the lower reaches of the Jordan, which is precisely the route which would have been taken in the Landnahme process of the mid-Palestinian, i.e. Rachel tribes.
- 278 cf. also Meyer, Die Israeliten und ihre Nachbarstämme, pp. 75ff, who argues that Judah did not come to its land possession via the east but directly from the south. However, Meyer's view is by no means the same in detail as that adopted here.
- 279 In Josh. 10: 36f Hebron is said to have been taken by Joshua. Wright, "The Literary and Historical Problem of Josh. 10 and Judg. 1", JNES V, 1946, pp. 105-114 (cf. also V.R. Gold, "Hebron", IDB 2, p.576), attempts to harmonize this with the other traditions that Caleb conquered Hebron, by arguing that after the place was taken by Joshua it had to

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be reconquered at a later stage by Caleb. However, it seems to me that the desire to present a uniform picture of the conquest, carried out in its totality by the Israelite tribes under Joshua led to this discrepancy, rather than any such historical process that Wright attempts to reconstruct. On the problems associated with Josh. 10, cf. espec. Noth, Josua, pp. 60ff.

The traditions of Deut. 1: 22ff; Josh. 14: 6-15; 15: 13ff (cf. also Judg. 1: 2-15, 20), all have in common that they presuppose Caleb's possession of Hebron and it is this circumstance which forms the basis and departure point for these accounts.²⁸⁰ The impression given that this Calebite conquest was part of the united campaign proceeding from east Jordan is probably due to the desire to present the conquest as such a unified invasion by all the Israelite tribes. Against this, the likelihood is that Caleb's settlement in the area around Hebron was quite independent of the campaign under Joshua coming in from the east and more or less confined to the central highlands.²⁸¹ If this is true then it would follow further that the most likely direction from which the Calebites came in the course of their settlement was directly from the south, and there is a tradition in Nu. 13f which can be taken to support this conclusion.

280 cf. Noth, Josua, pp. 83f, 90ff, who points also to other aetiological elements within Josh. 15: 13ff. On Deut. 1: 22ff, cf. also idem, Überlief. Stud., pp. 31f.

281 cf. Clements, Abraham and David, p.42, who also makes the point that "later Israelite tradition would certainly not have ascribed to Caleb an important victory if the historical evidence had not testified to it very strongly."

The JE narrative in these two chapters²⁸² tells of the sending of spies from Kadesh into the land of Canaan and of their return, bringing with the exception of Caleb, a discouraging report of the strength of the inhabitants of the land and the inability of the Israelites to overcome them. While Caleb was in favour of proceeding directly into the land the rest of the people thought in terms of a return to Egypt. This aroused the anger of Yahweh who thereupon condemned them to wander in the wilderness so that none of that generation, except for Caleb,²⁸³ should see the land.

282 Besides Noth, Überlief. des Pent., pp. 19, 34, cf. Gray, Numbers (ICC), 1903, pp. 128ff, for the literary criticism of these chapters. While Noth does not find any E material here, they are both, however, agreed on the delineation of the P material, with the following minor exceptions: 'and they went up' in 13: 21 is taken as P (Noth), JE (Gray); 'they brought back word....fruit of the land' in 13: 26 is taken as P (Noth), JE (Gray); 'and all the people that we saw.....so we seemed to them' in 13: 32f, is taken as P (Noth), JE (Gray): 'and they gave forth their voice' in 14: 1 is taken as P (Noth), JE (Gray); 14: 3, 8, 9 are taken as P (Noth), JE (Gray). It is the separation of P, rather than the existence of E, which is the important question here.

283 On the addition by P of the figure of Joshua, cf. Noth, Überlief.Stud., p.203 n.6.

In defiance of this the people did make an abortive attempt at invasion which resulted in defeat. Now,²⁸⁴ the ultimate purpose of this narrative is to justify Caleb's possession of the district of Hebron, but on the other hand it is probable that the narrative has taken up, and transformed for reasons which will be mentioned, a tradition of an actual settlement of this area by Calebites coming directly from the region of Kadesh.²⁸⁵ Such a view seems more credible than the idea that Caleb, after wandering with the rest of his generation in the wilderness until that generation had died, accompanied Joshua in his invasion from the east and thence proceeded south to Hebron. The reason for the present Old Testament presentation of the course of events would simply have been the desire to obviate the chance of giving rise to the impression that the conquest was anything other than a united assault of all Israel under Joshua, coming from the east. Thus a direct connection can be established between Kadesh²⁸⁶

284 For what follows, cf. particularly Noth, Überlief. des Pent., pp. 143ff.

285 cf. Clements, Abraham and David, pp. 42f; (Newman, People of the Covenant, pp. 91ff); Rowley, From Joseph to Joshua, p. 102; Eissfeldt, "Palestine in the time of the Nineteenth Dynasty", pp. 23f. However, the view of the last two scholars that the invasion from the south was a 'century or two earlier than the advance of the 'house' of Joseph' (Eissfeldt) or that it took place in the Amarna Age (Rowley, *ibid.*, pp. 76f), does not seem to have any convincing evidence to support it. Against Rowley's interpretation of Nu. 13: 22b, cf. Clements, Abraham and David, p. 41. In this connection, cf. also Nu. 21: 1-3.

286 I can see no basis for Noth's suggestion, Überlief. des Pent., pp. 147f, that Hormah was the starting point of the movement northwards of the Calebites.

and the district of Hebron. When this connection was made, i.e. when the Calebites moved northwards from Kadesh to occupy the district of Hebron, cannot, of course, be said with certainty, but there is no convincing reason for putting this movement in a period far removed from that in which a similar invasion of other groups under Joshua was taking place from the east. All of this then can only add support to the tradition that the Calebites were Yahweh worshippers at the time of their migration to Hebron from Kadesh, and that consequently they introduced this Yahweh worship into the city where they settled.²⁸⁷ The time of this migration is naturally impossible to determine precisely, but if it is true that the Calebites migrated direct to Hebron from Kadesh, and if it also is the case that they were Yahweh worshippers who brought Yahwism with them to Hebron, then the obtrusive conclusion is that at Kadesh the Calebites were in contact with other groups who eventually introduced Yahweh worship to the region of Shechem, i.e. the Joseph tribes or a part of them.²⁸⁸

287 cf. Clements, Abraham and David, pp. 38ff, 42.

288 The clearest indication that those who eventually contributed to the composition of the Joseph tribes were at Kadesh is the account in Josh. 24 of the Yahweh covenant celebrated at Shechem. This latter cannot adequately be explained on the supposition of the spread of Yahwism to the north through the work of the Levites, for the reason that it is Joshua who celebrates this covenant and there is, furthermore, no indication of the participation of the Levites in the Shechemite cult in the period of the judges

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(cf. Clements, "Review of Gunneweg, *Leviten und Priester*", VT 17, 1967, pp. 128ff; Noth, "Das Amt des Richters Israels", p.414), and the question of the origin of the Levites is much too complex and uncertain for any such far-reaching theories of their functions to be constructed. It is also clear that by arguing thus for a connection between later northern and southern elements of Israel at Kadesh, we have gone far from what Noth would regard as valid. As is well known, the latter argues that there can be no history before the appearance of the 12 tribe amphictyony after the settlement. Narratives of the preceding period can be taken only as the separate and independent traditions of separate and independent clans wandering on the desert fringes. It was only with the settlement of these clans and their constitution as tribes and the coming together of the tribes to form an amphictyony, that these traditions also were brought together and given an extended reference so that they could be understood as the pre-settlement history of the people Israel. The consequences of these presuppositions are serious for the pre-settlement traditions. Thus, the original JE conquest tradition at first applied only to the mid-Palestinian tribes and took its departure point from the southern part of east Jordan (cf. Nu. 20). The wilderness wandering tradition, on the other hand, is no really independent tradition, but must be seen as a sort of stop-gap, composed largely of aetiological stories attached to various oases, or explaining various desert phenomena, which was brought into its present connection at a comparatively late stage, by Judean circles, in order to fill the gap between the originally independent Exodus and Conquest traditions once the task had been undertaken of bringing these traditions into chronological order relating the experience of Israel as a whole. Similarly the Sinai tradition was originally quite independent of the rest though, against von Rad, "Problem of the Hexateuch", pp. 53ff, who thinks that the connection of the Sinai tradition with the others was a literary process undertaken by the Yahwist, Noth believes that the Sinai theme was in its present place, as one of the Pentateuch themes, already

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in the time of G(rundlage) - the basis, either oral or written, from which J and E derive - which he puts in the judges period. Now against Noth's view the valid objection has been made (cf. Bright, Early History in Recent History Writing, pp. 113f) that no sufficient account has been taken of the fact that the distinctive and constitutive element of Israel as a people was her faith. The main difficulty into which this brings Noth is especially clear in his History, pp. 137f. Although it was earlier argued by Noth, Überlief. des Pent., pp. 48f, that it is the Exodus theme to which priority in importance must be assigned among the five themes of the Pentateuch, it seems that he believes (History, pp.137f) that this deliverance took place under the aegis of some (anonymous) mighty God, who was only subsequently, after the Landnahme and the coming together of the separate clans with their various traditions, identified with the Yahweh who belongs properly to the Sinai tradition. Obviously there is a difficulty here, for if Yahweh is anything in the O.T. besides being the One of Sinai (cf. Beyerlin, Sinaitic Traditions, p.102 with references), he is undoubtedly also the one who brought Israel out of Egypt. It is difficult, if not impossible, to separate Yahweh from this primary event, and if anything constitutes a connection between the themes of Exodus and Sinai it is that Yahweh is central to both. This means that we are faced with the problem of the relation between Exodus and Sinai, for there is no doubt that from literary-critical considerations the Sinaitic traditions are an insertion into the Kadesh cycle of traditions (cf. von Rad, "Problem of the Hexateuch", p.14). However, since theories are in order here, and since in the last resort one cannot go beyond theories especially at this point, the following may be offered. First, it is likely that Sinai was the mountain abode of Yahweh to which pilgrimages were made (cf. Clements, God and Temple, p.19). Secondly, if it is true that Yahweh is inseparably connected with the deliverance from Egypt, and if it was always believed by those who had escaped from there that this escape was due to Yahweh's guidance, this presupposes a knowledge of Yahweh among those in Egypt. Given these two pre-

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suppositions, the following reconstruction could be made: a clan, or group of clans, accustomed to making pilgrimages to Sinai, the mountain abode of Yahweh, migrated to Egypt in the course of a search for pasture. There they were put to forced labour, from which they eventually escaped, and made their way to Kadesh where they met up with other groups also accustomed to making pilgrimages to Sinai. At Kadesh a mixing of these clans took place, and at Kadesh these clans, who would have had in common their connection with Sinai, came to regard themselves as the people of Yahweh, and from Kadesh in this capacity they continued to make pilgrimages to the divine mountain, while at the same time all of them would gradually have come to regard the deliverance from Egypt, which was in fact the experience of only a part of them, as the historical experience of them all under Yahweh's leadership. Thus the relation between Exodus and Sinai would be seen, not as a simple chronological one, but as a complex one in which Sinai had always been holy to all of them, while Exodus was an episode, albeit an important one, in the life of a smaller group. On the originality of Yahweh in both Exodus and Sinai traditions, cf. also V. Maag, "Das Gottesverständnis des Alten Testaments", Nederlands Theologisch Tijdschrift 21, 1967, p.164 n.1. In support of the originally separate nature of Exodus and Sinai, cf. Wildberger, Jahwes Eigentumsvolk, pp. 34, 37, 62ff, 68ff, 112; but cf. Fohrer, Überlieferung und Geschichte des Exodus, p.35, who adopts the novel idea that they originally belonged together but were later separated. On the historical credo on which von Rad relies heavily, cf. above pp.180ff, and for another explanation for the absence of any mention of Sinai in the credo cf. Nielsen, Shechem, 356f.

It was here that what may be called Israel's 'national consciousness' originated and not in the context of an amphictyony after the settlement.²⁸⁹ It was at Kadesh that there was a first consolidation of what were later to be northern and southern elements of Israel in Palestine, and it is this pre-settlement time which is the source of the feeling for unity which, after the settlement, did not come to full expression until the time of the monarchy. At Kadesh the clans separated, for a reason which can no longer be ascertained,²⁹⁰ some going round to enter Palestine from the east, while others went directly northwards. As a result, Yahwism was implanted both at Shechem and at Hebron, the two main centres of the two larger tribal groups of the judges period. Thus, a continuity in Yahweh worship can be traced (a) from Kadesh to Hebron to Jerusalem and into the monarchy period in Judah; and (b) from Kadesh to Shechem and into the monarchy period of northern Israel. After departing from Kadesh, the representatives of these two streams of Yahwism really only came together for a brief period in the time of Saul, David and Solomon, but with the worship of Yahweh as their one common factor they remained as separate entities, either by force of circumstances as in the judges period, or by freewill, as in the post-Solomonic period, at all other times of their existence.

289 cf. Eissfeldt, "Jahwe, der Gott der Väter," ThLZ 88, 1963, col. 490; idem, "Palestine in the time of the Nineteenth Dynasty", p.23.

290 Newman, op.cit., p.101, conjectures that theological differences were the root of this, but with regard to his use of the J and E covenant traditions to show these differences, cf. below n.9 to Additional Note I to Chapter 3.

Additional Note I to Chapter 3

The Covenant on Sinai and the Covenant with David

In view of our conclusion that the tradition of Exodus and Sinai occupied an important place in the south, and in view of the fact that the Davidic and Sinaitic covenants are so often taken as being fundamentally different, if not incompatible, something should be said on the question of the relationship of these two covenants.¹

Kingship was an exceedingly important factor in Israelite life. Its rise may have created tension with the old pre-monarchy order,² yet it is evidently on the pattern of the Davidic covenant that the later hope for restoration was based,³ while it is the ancient Israelite ideal of kingship which was the source of the conception of the Messiah.⁴

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- 1 cf. also McCarthy, "Covenant in the Old Testament", pp. 235ff; D.N. Freedman, "Divine Commitment and Human Obligation", pp. 420ff; A.H.J. Gunneweg, "Sinaibund und Davidsbund", VT 10, 1960, pp. 335-341.
 - 2 These tensions are emphasized especially by Alt, "The Monarchy in the Kingdoms of Israel and Judah", Essays on Old Testament History and Religion, pp. 241ff; and Bright, A History of Israel, pp. 203ff.
 - 3 cf. McCarthy, "Covenant in the Old Testament", pp. 235f.
 - 4 cf. Mowinckel, He that Cometh, pp. 96ff, 122ff; also McCarthy, "Covenant in the Old Testament", p. 236, who says that 'the form of the Davidic covenant was not only acceptable; it became the backbone of a theological structure which explains the continuity of Israel'.

In view of this importance, then, it would be surprising if the covenant between Yahweh and the Davidic king was totally incompatible with that between Yahweh and the people as a whole. It will be our contention here that, far from being incompatible, they both display common elements, and that though the relationship between them in Judean and Jerusalemite thought and forms of worship cannot be closely defined, the conclusion is not justified that they were handed on in total isolation.

In the first place, the following question may be put: which is primary, the Davidic covenant or the Davidic dynasty? In other words, is the covenant in which it was believed that Yahweh promised that David and his descendants should always stand in a special relationship with him and occupy the throne in Jerusalem the primary factor on which was based the claim of David's descendants to occupy the throne, or is the dynasty the primary factor and the covenant simply a theological expression of what was in fact a political reality? This is not just an idle question, for the answer to it will have some effect on our conception of the Davidic covenant.

It is Alt in particular to whom we owe the most penetrating and instructive insights into the processes involved in the rise of the monarchy in Israel and the significance

of the several events which contributed to this.⁵ His elucidation of the importance of David's capture of Jerusalem and the elevation of that city as his capital is of particular concern here, for from the time of David on it was that city which remained as the seat of the Davidic kings, and the close connection between the election of Zion and the election of David has already been pointed out.⁶ Jerusalem was a neutral city: that is, it lay on the border between Israel and Judah, and so, in making it into his capital, David could be accused of favouritism by neither kingdom. But this was not the only characteristic of Jerusalem. It was not only neutral, it was also the City of David. It had been taken by him with the help of his own mercenaries, and through this conquest the city belonged to him and to his descendants after him. Thus, from the moment of David's capture of Jerusalem, a formerly Jebusite city, it was his by right, and on his death rule over it passed automatically and legally to his descendants.

5 Alt, "The Formation of the Israelite State in Palestine", Essays on Old Testament History and Religion, pp. 173ff; "The Monarchy in the Kingdoms of Israel and Judah", op.cit., pp. 241ff.

6 cf. above p.244 n.4. For what follows, cf. Alt, "The Formation of the Israelite State in Palestine", pp. 217f, 233f; "The Monarchy in the Kingdoms of Israel and Judah", pp. 247ff, 254ff.

The city belonged to neither Israel nor Judah, and so it can really be said that David's monarchy was a triple monarchy rather than a dual one. No matter how Israel and Judah were to decide on how or by whom they were to be governed, the city of Jerusalem would still remain under the rule of a descendant of David.⁷ Thus the dynastic principle was inherent in the Davidic monarchy right from the beginning, and it is no accident that the first we hear of a dynasty in the northern kingdom is in connection with Omri who founded his own city of Samaria. But if this is a correct representation of the circumstances attending David's occupation of Jerusalem, and if the dynastic principle was characteristic of David's rule in that city from the very beginning, then it is only to be expected that this should be reflected in the theological foundation given to his monarchy.

7 Alt, "Die territorialgeschichtliche Bedeutung von Sanheribs Eingriff in Palästina", Kleine Schriften, vol. 2, pp. 242ff, has argued that this legal right of the descendants of David to Jerusalem was even recognized by Sennacherib. Alt's way of distinguishing between the monarchy in Judah and that in the north on the basis of a distinction between a "dynastic" monarchy and a "charismatic" monarchy, has been subjected to some criticism by T.C.G. Thornton, "Charismatic Kingship in Israel and Judah", JTS 14, 1963, pp. 1-11. While the criticisms of the latter are probably justified, this does not really affect the point at issue here.

Even though it is also very probable that the formulation of the Davidic covenant has been influenced by the earlier covenant with Abraham,⁸ it should be recognized that the idea that the covenant between Yahweh and David was an 'eternal covenant',⁹ probably derives from the political

8 On this cf. Clements, Abraham and David, pp. 47ff; Mendenhall, "Covenant", IDB vol. 1, pp. 717f; von Rad, Genesis (O.T. Library, E.T. 1961), pp. 154ff.

9 2 Sam. 23: 5 בְּרִית עוֹלָם. Newman, The People of the Covenant, pp. 50f, 68ff, 85, 89f, 138ff, 161ff, has attempted to delineate and trace the history of a J version of the Sinaitic covenant reaching back to Kadesh. This covenant legend is distinct from that of E in that it is "more priestly, cultic, authoritarian, and dynastic in tendency". These characteristics can be derived from the Kenites. This J covenant legend was attached to the Tent of Meeting, and after leaving Kadesh was brought direct to Hebron. Here David would have become familiar with it and, after taking Jerusalem and bringing up there the Tent of Meeting, the priestly dynastic principle of the covenant theology was transferred to a royal dynasty. In this way Newman accounts for the origin of the dynastic principle and the fact that it quickly won acceptance in the south. However, a serious drawback of Newman's thesis is that he does not take account of how far it may have been the characteristics of the Jerusalem cult which influenced the present form of the J narrative of the Sinai covenant, rather than vice versa; cf. Clements, Prophecy and Covenant, p. 59 n.2.

and legal reality that Jerusalem belonged to David and to his descendants by right.¹⁰

Apart from this aspect of the Davidic covenant, however, its 'promissory' character is prominent and this has been emphasized as the point in which it is most distinct from the Sinaitic covenant.¹¹ But there are a number of things which should be kept in mind here. Undoubtedly the element of promise is inherent in the Davidic covenant,¹² but the prominence which this element attained was probably due to the collateral idea that the covenant was an eternal one which, in turn, was an inevitable feature of the covenant as a consequence of David's and his descendants' legal right of possession of Jerusalem. However, the Davidic king, on accession to the throne, became subject not only to the promise but also to very definite obligations, both towards his people¹³ and

10 cf. Alt, "The Monarchy in the Kingdoms of Israel and Judah", p.257, where he speaks of the covenant theology through which the 'dynastic principle in the Davidic monarchy becomes a divine provision'.

11 cf. Clements, Abraham and David, pp. 53f.

12 cf. e.g. Ps. 89: 22ff (EVV 21ff).

13 From the occasional references we meet to a covenant enacted between king and people on the king's accession (cf. 2 Sam. 5: 3; 2 Kings 11: 17) it is possible to conclude that the king undertook certain obligations towards the people. On 2 Sam. 5: 3, cf. Noth, "God, King and Nation in the O.T.", p.164; and on 2 Kings 11: 17, cf. above p.259n.43.

towards Yahweh. It is difficult, indeed, to imagine any sort of covenant between Yahweh and another party in which the other party is not placed under some sort of obligation,¹⁴ but the obligations which the king took on himself at his accession are clearly set out in several psalms¹⁵ which show that the king's position vis-à-vis Yahweh was not simply one of passive acceptance of unconditional promises.

14 This goes also for the covenant with Abraham, cf. J.N. Schofield, Introducing Old Testament Theology, London 1966, pp. 40f, 43.

15 cf. e.g., Ps. 89: 31ff (EVV 30ff); Ps. 101 (according to Johnson, Sacral Kingship, p.114, this psalm 'may well mirror the moral code to which the Davidic king (and originally David himself) was pledged under the terms of the Davidic covenant. Rohland, op.cit., p.226 (cf. also ibid., p.228), calls it a 'Regentenspiegel'); Ps. 132 (on this psalm, cf. Johnson, op.cit., pp. 19ff. Rohland, op.cit., pp. 121f, argues that it belongs to the time of Josiah and betrays deuteronomic ideas and terminology; but cf. Gunkel-Begriff, op.cit., pp. 142, 411, where it is argued that the psalm was used annually in a festival commemorating David's bringing of the ark up to Jerusalem; cf. also Kraus, Worship in Israel, pp. 183ff. It is to be noted that in this psalm the Davidic covenant has a wholly conditional character, cf. v.12; and on the דָּוִד referred to being the Davidic covenant, cf. Kraus, Die Psalmen, pp. 886f. It is doubtful whether the psalm can be taken as late simply on account of the emphasis laid on the obligations of the king, as argued by Kutsch, "Gesetz und Gnade", ZAW 79, 1967, p.32. On the liturgical character of the psalm cf. also T.E. Fretheim, "Psalm 132: A Form-Critical Study", JBL 86, 1967, pp. 289-300; and Newman

Note 15 continued

The People of the Covenant, pp. 175f.). It is at least worth noting that it is precisely because Ps. 132 emphasizes the obligations of the king, and the conditional nature of the Davidic covenant, that Thornton, op.cit., p.11, argues that it belongs to an early period of the Davidic monarchy. However, the latter also thinks that the view of the Davidic covenant as unconditional belongs to a later stage when 'age (i.e. of the Davidic dynasty) would bring with it an aura of hallowed sacrosanctity'. This view is certainly not compatible with what has been said above.

However, to explain a point does not mean that its significance can be dismissed; so even if the basis proposed above for the 'eternal' characteristic of the Davidic covenant proves to be correct, this cannot be taken to show that this particular feature was any the less significant. Indeed we know from Ps. 89 in particular that this element of the Davidic covenant meant that even if the individual king did transgress Yahweh's commands he might be punished, but that would not make null and void Yahweh's covenant with the Davidic dynasty.¹⁶ But perhaps what has been said will help to make clear that even within this covenant there was the same tension between the promise of Yahweh and the obligations of the king, between grace and law, as exists in the Bible as a whole. The individual Davidic king, no less than the entire people, would enjoy the fruits of Yahweh's promise only on the basis of his obedience to the divine commands.¹⁷

16 cf. vv. 34ff (EVV 33ff).

17 cf. Kraus, Die Psalmen, p.887; Mowinckel, He that Cometh, p.96. For a discussion of the position of the king as representative of the people, on whose 'righteousness' depended the welfare of the people, cf. Mowinckel, The Psalms in Israel's Worship, vol. 1, pp. 60f.

More specifically, it might be said that the Sinaitic and Davidic covenants have in common that they both proceed from the initiative of Yahweh and that the present full realization of the implications of the relationships thereby established depended on the fulfillment of the obligations involved in them.¹⁸

- 18 Indeed, if it is true that the classical prophets were the first to declare the end of God's covenant with his people, the first to preach that Israel as a whole had, through its sins, forfeited its position as the people of Yahweh (cf. Westermann, Grundformen prophetischer Rede, pp. 98f; Clements, Prophecy and Covenant, pp. 40ff, 81f), then the conditional nature of the Sinaitic covenant as it applied to Israel as a whole fades rather into the background. One could refer here perhaps to such a passage as Judg. 2: 1, where the covenant between Yahweh and Israel appears as one of unconditional promise. This would confirm the view that in both the Sinaitic and Davidic covenants there was tension between promise and demand, between grace and law, and that in both covenants now one and now the other element could be emphasized.

Additional Note II to Chapter 3The Original Form of the Decalogue

I am Yahweh thy God, who brought thee out of the land of Egypt.¹

- 1 The three possible translations of this introduction are reviewed by Stamm, in Stamm and Andrew, op.cit., pp. 76f. We here follow that defended by Zimmerli, "Ich bin Jahwe", in Gottes Offenbarung, pp. 11-40, on the basis of the occurrence of the formula especially in the Holiness Code and Ps. 50: 7. So against Noth, "The Laws in the Pentateuch", p.20 n.38; Jepsen, "Beiträge zur Auslegung und Geschichte des Dekalogs", ZAW 79, 1967, pp. 285ff, who argues that nothing indicates that with the proclamation of the Decalogue there was a new revelation of Yahweh, which would make a 'self-revelation formula' necessary. The introduction is to be seen as a Huldformel, which is to be translated 'I Yahweh am thy God'. A more important question, however, is that concerning the originality of the phrase 'who brought thee out of the land of Egypt, out of the house of bondage'. It is often taken as deuteronomic (cf. e.g. Stamm, "Dreissig Jahre", p.203; Fohrer, "Das sog. apodiktisch formulierte Recht", p.58), but this may seriously be disputed especially with regard to the first half of the phrase. It is true that the description of Yahweh as the one who 'brought thee out of the land of Egypt' is relatively rare in early literature, but the fact that it does occur in early literature, apart from the Decalogue (cf. e.g. Nu. 23: 22; 24: 8), show that it cannot automatically be considered an addition in the Decalogue cf. Noth, Überlief. des Pent. pp. 51f (even if Ps. 50: 7, 18-21 bears some relation to the Decalogue, as von Rad, "Problem of the Hexateuch", p.23, argues, it provides no certain help in the reconstruction of the

Note 1 continued

original introduction to the Decalogue, cf. also Mowinckel, Le décalogue, p.126 and n.1, who thinks that Ps. 50: 7 should be supplemented with the phrase 'who brought thee out of the land of Egypt' in accordance with Ps. 81: 11 (EVV 10) - so against Wildberger, Jahwes Eigentumsvolk, p.114 n.99). With the phrase 'out of the house of bondage' the case is, however, not so clear. The occurrences in Ex. 13: 3, 14 are in a deuteronomistic passage, cf. Noth, Überlief. des Pent., p.32 n.106, p.51, while Josh. 24: 17 we have already seen to contain a number of additions, cf. above p.188. Other occurrences of the phrase (cf. S. Mandelkern, Veteris Testamenti Concordantiae, Tel-Aviv 1962, p.812) are: six times in Deuteronomy, once in Judges, once in Micah and once in Jeremiah. Its use in Jeremiah (34: 13) could be taken as a sign of the influence of the language and ideas of Deuteronomy, but the case is different with Judg. 6: 8 and Mic. 6: 4. With the former passage, its deuteronomistic character (so Noth, Überlief. Stud., p.51) has been disputed by Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch", pp. 8f, 24, 27f, who finds in Judg. 6: 7-10 elements of the Rib, and so derives this text, as well as Judg. 10: 11b-14, from oral preaching to the covenant-breaking Yahweh community in the pre-monarchy period. This preaching, with its terminology, was taken up into the Jerusalem covenant cult, and it is from this sphere that the use of the expression in Mic. 6: 4 is derived; cf. idem, Die Kulttraditionen Israels in der Verkündigung des Propheten Micha, pp. 67f, 70. What this amounts to is really a complete overhaul in what is to be understood by the term deuteronomistic. The tendency to regard deuteronomistic language, not as a criterion for late dating, but as a sign of the cultic language and expression which was adopted especially by the authors of Deuteronomy, seems to have been instituted by Mowinckel, Le décalogue, pp. 7f, and now finds representatives in Weiser, Jeremiah (ATD), pp. xxxvii n.1, 482; idem, The Psalms, p.25; Beyerlin, Kulttraditionen, p.67; Reventlow, Gebot und Predigt im

Note 1 continued

Dekalog, Gütersloh 1962, pp. 14f, 94. Against this tendency, cf. Fohrer, "Das sog. apodiktisch formulierte Recht", pp. 57f. For a judicious evaluation of the issues involved here, and for a guide to determining what is pre-deut., deut., or post-deut., which does not unfortunately, go into much detail, cf. Brekelmans, "Die sogenannten deuteronomischen Elemente in Gen.-Num.", "VT Suppl XV, 1966, pp. 90-96. Even if the phrase is not to be taken as deuteronomistic, in the sense that it derives from 7th cent. B.C., it is, nevertheless, typical of Deuteronomy and the deuteronomist, and is probably not to be ascribed to the original form of the Decalogue. The absence of the phrase in the Nash Papyrus (cf. the text in Würthwein, The Text of the Old Testament, Oxford 1957, p.92; and text and notes in Charles, The Decalogue, Edinburgh 1923, pp. xiiiiff) is of no help in this question since, as it was composed in Egypt, there was probably good reason for omitting the phrase, cf. Beyerlin, Kulttraditionen, p.67 n.4. But probably the phrase was added to the introduction to the Decalogue in the course of its proclamation, and thereafter may have become a part of what Lohfink, Das Hauptgebot, pp. 100f, calls 'Dekalog-sprache' which influenced the other passages where this phrase occurs.

1. Thou shalt have no other gods before me.²

- 2 The proposal of Reventlow, Gebot und Predigt, pp. 26f, that Ex. 20: 3 should be rendered with an indicative: 'you have no other gods besides me', thus making it a part of the introduction in which Yahweh reveals himself, is unlikely to gain much following. The Hebrew which Reventlow's proposal presupposes would be rather לֹא-יִהְיֶה לְךָ אֱלֹהִים אֲחֵרִים. The fact that Hebrew has no verb 'to have' readily explains the present form of the command and justifies its translation as a command (cf. also Jer. 35: 7), cf. Alt, "Origins", p. 119 n.100. Against Reventlow, cf. also Fohrer, "Das sog. apodiktisch formulierte Recht", p.67 n.44; R. Knierim, "Das erste Gebot", ZAW 77, 1965, p.26. On the point of the translation of לֹא-יִהְיֶה cf. Stamm, in Stamm and Andrew, op.cit. p.79; idem, "Dreissig Jahre", pp. 237f. The same problem which was met above with the words 'house of bondage' occurs again here with the words 'other gods'. But again it can only be said that אֱלֹהִים אֲחֵרִים is most frequent with Deuteronomy and later, cf. Nielsen, Die Zehn Gebote, p.34; but in view of its occurrence in Hos. 3: 1 and perhaps also 1 Sam. 26: 19, it cannot be taken exclusively as a deuteronomistic expression. If the attractive proposed emendation of Alt, "Origins", p.112 n.73, in Ex. 22: 19 (EVV 20) is adopted, another pre-deuteronomistic example of the phrase is yielded. Furthermore, it has been pointed out by Beyerlin, "Gattung und Herkunft des Rahmens im Richterbuch", pp. 13f, that the use of the phrase, in Jeremiah is in passages which do not conform with deuteronomistic piety, though it is unlikely that this circumstance proves what Beyerlin wishes it to prove, since Jeremiah could easily have adopted it from the ideas and expressions associated with the deuteronomistic circle and used it quite independently. There is, however, no reason for denying this expression to the original form of the first commandment from pre-

Note 2 continued

deuteronomic days, and certainly Nielsen's proposal, Die Zehn Gebote, pp. 69f, that the command was originally לֹא יִתְּנוּ לָהֶם שֵׁם (cf. Ex.34: 14), or לֹא יִתְּנוּ לָהֶם שֵׁם (cf. Ps. 81: 10), is far from convincing, and I find it hard to see how the confluence of the deuteronomic movement and the Jerusalem temple tradition could have, or would have had to have, carried out the changes involved if Nielsen's proposal is correct (cf. *ibid.*, pp. 78f). It seems unnecessary to understand לִפְנֵי as a phrase peculiarly associated with the Jerusalem temple tradition, or, with Knierim, *op.cit.*, pp. 24f., to give the expression the literal and concrete sense of 'before me' in that the prohibition is said by the latter to concern the actual setting up of foreign gods in front of Yahweh, i.e. perhaps in front of the ark, cf. Jepsen, *op.cit.*, p.287 n.5. The fact that the phrase used is 'other gods' and not 'images', together with the fact that לֹא יִתְּנוּ is used and not a verb 'to set up', gives the prohibition a general sense and militates against any such concrete understanding of לִפְנֵי; cf. Gese, "Der Dekalog als Ganzheit betrachtet", ZThK 64, 1967, p.125 n.14.

2. Thou shalt not make to thyself a (graven) image.³

3 לִפְנֵי is normally translated 'graven image' in contrast to מִצַּבִּים 'molten image'. However, in view of the use of לִפְנֵי in Is. 40: 19; 44: 10, this distinction cannot be taken as certain, and therefore no reliance can be placed on theories, based on this distinction, cf. J.C. Rylaarsdam, (Exegesis to) "Exodus", IB vol. 1, pp. 981f; so against W. Keszler, "Die literarische, historische und theologische Problematik des Dekalogs", VT 7, 1957, p.9. A more difficult question, however, is that of what images are meant in this prohibition, images of Yahweh or images of other gods. In favour of the view that the prohibition was of images of other gods strong arguments were put forward by H. Th. Obbink, "Jahwebilder", ZAW 47, 1929, pp. 264-274, who thought that only with such a view (Obbink had Canaanite cultic images in mind) could the description of Yahweh as a 'jealous God' (Ex. 20: 5) be properly understood, for Yahweh would have no reason to be jealous of images of himself. However, the main support for this thesis (and cf. the objection of Jepsen, op.cit., p.288, on the translation of לִפְנֵי) is removed as soon as one adopts Zimmerli's recognition of the original reference of the extension to this command in Ex. 20: 5f, cf. "Das Zweite Gebot", in Gottes Offenbarung, pp. 234ff. According to the latter these verses cannot refer to the immediately preceding prohibition because of the plural מִצַּבִּים. The antecedent for this word is to be found rather in the מִצַּבִּים of the first prohibition. Thus, by the time the addition of vv.5f was made, by using two old confession formulae, the prohibition of images had come to be overshadowed by the prohibition of other gods, and the two formerly independent commands were dealt with as one command. This has survived in the Catholic/Lutheran tradition (cf. the table in Nielsen, Die Zehn Gebote, p.16) which compensates by taking the 10th command as two separate prohibitions. A partly similar recognition is the independent one of Nielsen, Die Zehn Gebote, pp. 16,76f, and for a much earlier proposal of this view of Ex. 20: 5f cf. the reference in Zimmerli, "Das Zweite Gebot", p.236 n.9. This

Note 3 continued

interpretation is refused by Reventlow, Gebot und Predigt, p.31, but this is because of the latter's view of the first prohibition as part of the introduction to the Decalogue (cf. n.2) which has already been refused. At a later stage, therefore, it seems that the second commandment was understood as referring to images of other gods, but this does not guarantee the same meaning for the prohibition of images at an earlier stage when it was quite independent of the prohibition of other gods. In fact, for the original prohibition it seems best to understand it as referring to images of Yahweh, for only by so doing is duplication with the first prohibition avoided. This is not to say that the purpose of the prohibition was to make the Yahweh faith 'spiritual' over against the 'material' cults of other nations, which was a widespread view among older scholars (e.g. Volz, Mose und sein Werk, pp. 37f, 40, 133ff; Driver, Exodus, CBSC, p.194) and still appears occasionally today (cf. e.g. J.E. Park, (Exposition to) "Exodus", IB vol. 1, p.981.) Such an interpretation mistakes perhaps the consequence of the prohibition for its purpose and, furthermore, this contrast of spiritual and material is illegitimate. More likely is the view that connects this prohibition with the following one and sees both as prohibitions of inhibiting the freedom of Yahweh who, in the case of Ex. 20: 4, chooses not to reveal himself in images made by men, but in history and in his word, cf. Zimmerli, "Das Zweite Gebot", pp. 244ff; K.H. Bernhardt, Gott und Bild. Ein Beitrag zur Begründung und Deutung des Bilderverbots im A.T., Berlin 1956, pp. 153ff (quoted in von Rad, O.T. Theology 1, p.217 n.67); cf. further, von Rad, O.T. Theology, 1, pp. 212ff; idem, "Some Aspects of the Old Testament World View", in The Problem of the Hexateuch and Other Essays, pp. 146ff.

3. Thou shalt not take my name in vain.⁴

- 4 Here it seems that more far-reaching change is necessary (cf. Nielsen, Die Zehn Gebote, pp. 70f, 79). If the original text read וְשֵׁם יְיָ אֱלֹהֶיךָ לֹא תִשָּׂא the final י may have been taken as an abbreviation for יְיָ, for which an analogy can be found in Judg. 19: 18, where בֵּית יְיָ should, in view of v.29, be בֵּית יְיָ. Subsequent to this change the word יְיָ אֱלֹהֶיךָ would then have been introduced. The phrase יְיָ אֱלֹהֶיךָ is common in Deuteronomy and the deuteronomistic literature, though the occurrences in Genesis (27:20) and Exodus (15:26) warn against confining it to that period. There is, of course, the problem of how the text came to have its present form, but it seems that this can adequately be explained as due to the influence of the extension to the prohibition which uses Yahweh in 3rd sing. Although Koch, Was ist Formgeschichte, p.36, is right in saying that in both cultic and prophetic contexts God can speak of himself in 3rd person, it nevertheless seems best, in such a case as the one at present in question where a ready explanation for a change is at hand, to posit that the 1st person is the original. In view of the situation to which he finds that the Decalogue must have belonged originally Nielsen, however, Die Zehn Gebote, pp. 68, 99ff, finally rejects this change. For the actual significance of the prohibition, cf. Stamm, in Stamm and Andrew, op.cit., pp. 89ff; von Rad, O.T. Theology 1, pp. 183f; Rylaarsdam, op.cit., p.983; Reventlow Gebot und Predigt, p.44; Volz, op.cit., p.42. In revealing his name Yahweh had to some extent put himself in the power of men. Since the prohibition is not formulated in precisely the words of Lev. 19: 12, it cannot be said to belong exclusively in the context of false swearing (but that it does also include this context is perhaps indicated by Hos. 4: 2 where reference is apparently made to the 3rd commandment, along with the 6th, 7th and 8th, cf. Stamm, "Dreissig Jahre", p.289), but has a general sense taking in also the magical use of Yahweh's name. I see no reason for following Koch, op.cit., p.53, in preferring וְשֵׁם יְיָ אֱלֹהֶיךָ לֹא תִשָּׂא of Ps.24:4 to (י)ְיָ אֱלֹהֶיךָ of the Decalogue.

4. Remember the Sabbath day to keep it holy.⁵

- 5 The Deut. 5 version of the Decalogue reads $\gamma\mu\psi$ (v.12) instead of $\gamma\kappa\iota$, while the Nash Papyrus has the Ex.20 version $\gamma\kappa\iota$. It is impossible to decide with certainty which can be taken as original. While $\gamma\kappa\iota$ is retained in the version given above, this is not for the reason that $\gamma\mu\psi$ is considered to be the stronger and therefore later expression, as Keszler, op.cit., pp. 9f, argues, cf. Stamm, in Stamm and Andrew, op.cit., pp.14f. The frequency of, and apparent preference for, $\gamma\mu\psi$ in connection with the commandments in Deuteronomy and the deuteronomistic work, may provide the explanation for the change. However, another approach is worthy of serious consideration. Apart from the 9th commandment, the 4th is the only one where there is substantial variation between the versions of Exodus and Deuteronomy in the kernel of the commandments. Otherwise, the variations occur in the extensions to the commands. We have already had occasion to note (cf. above ch.3n.56) that $\gamma\kappa\iota$ is considered by some to be a cultic technical term, and this, together with the fact that Deut. 5: 12 presents a different term, may give support to Reventlow's suggestion, *Gebot und Predigt*, pp. 55f, that everything which we have of this Sabbath command stems from the sphere of preaching. This involves (a) a reconstruction of the original command on which this preaching was based, and (b) an explanation of how it was that at some stage the original command was forgotten and its place taken over by the preaching elements alone. Naturally, any reconstruction is bound to be arbitrary to some extent, but it is certainly possible that this read originally $\text{לֹא תַעֲשֶׂה מְלָאכָה בְּיוֹם הַשַּׁבָּת}$. To this the preaching elements which we now have in the Decalogue were gradually attached, though perhaps with the form $\gamma\kappa\iota$ rather than $\gamma\mu\psi$. The original prohibition would have belonged to the stage when the Sabbath was still considered to be a tabu day, but as this day gradually came to be regarded as a festival

Note 5 continued

day rather than a tabu day, the preaching was gradually appended to the prohibition until finally the original prohibition itself was dropped and the present positive formulation of the commandment adopted in conformity with other prescriptions on sacrifice and festivals which have predominantly a positive formulation. This is substantially the view of Nielsen, Die Zehn Gebote, pp. 68, 71, 80f, 88ff, with the difference, however, that Nielsen does not seem to think that the present positively formulated command was ever part of the extension attached to the original prohibition, but that the former was a direct replacement of the latter. However, the view suggested here, besides tying in with what Reventlow thinks, also conforms with the proposal of Kilian, "Apodiktisches und kasuistisches Recht im Licht ägyptischer Analogien", pp. 201f, who, with reference in particular to Lev. 19: 18, thinks that the bulk of the positive commands owe their existence to the parenetic development of the prohibitions, cf. also Alt, "Origins", p.118; von Rad, O.T. Theology 1, pp. 198f; (cf. also idem, "The Early History of the Form-Category of 1 Corinthians XIII. 4-7", in The Problem of the Hexateuch and Other Essays, p.315). However, the one great objection which can and must be raised against this is that it is of a highly speculative nature. There is no really convincing evidence that the present Sabbath command is either a replacement of, or a development from, another command formulated either negatively or positively. So it seems best, in the absence of clear indication to the contrary, that the command given above should be taken as the original. In spite of, e.g., Fohrer, "Das sog. apodiktisch formulierte Recht", p.64 n.51, we prefer to retain ^{שבת} as part of the original, since even the view of the Sabbath as simply a rest day would not be out of harmony with a verb which means basically simply to keep separate, cf. also Charles, op.cit., pp. xlvf.; Jepsen, op.cit., p.292. On the question of the positive formulation of the command, cf. further next note. For the possible connection of Ex. 20:11 with the P narrative of creation in Gen.1 (and a rejection of any dependence of the former on the latter), cf. Nielsen, Die Zehn Gebote, pp. 37f; Reventlow, Gebot und Predigt, pp. 57ff; Stamm, "Dreissig Jahre", p.199.

5. Honour thy father and thy mother.⁶

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- 6 As with the Sabbath command, so here with the parents command, Nielsen, Die Zehn Gebote, pp. 68, 71, 90ff, considers it is a reformulation of an original prohibition which perhaps read $\text{אלהינו אלך אלך אלך}$ (cf. Ex. 21: 17; Deut. 27: 16). This change came about as a consequence of the influence of the wisdom literature (but does not originate in Gerstenberger's proposed relationship of the wisdom literature and the O.T. apodictic). Under the influence of the wise the law of Yahweh is in the process of changing from its old function of marking the borders of life within the covenant to include also the positive stimulus to undertake certain actions, with the prospect of a reward in the future. Such a change of the present positive command into an original prohibition was, already before Nielsen, advocated by Alt, "Origins", p.118 (following the earlier proposal of Sellin, cf. *ibid.*, n.99), and followed by von Rad, O.T. Theology 1, p.191; Reventlow, Gebot und Predigt, p.63; and especially Rabast (for references cf. Nielsen, Die Zehn Gebote, p.66; Stamm and Andrew, *op. cit.*, p.20). However, there are three reasons for rejecting Nielsen's argument: (a) it can be argued that he is begging the question, for that the law under the influence of the wise did undergo the change in intention which Nielsen suggests presupposes the understanding that the positive command is a later reformulation of the prohibition; (b) even if Nielsen was right that the command was a reformulation of the prohibition, this is only a general principle applicable to the type, but can prove nothing with regard to the particular command with which we are here concerned; and (c) even if this particular command is a reformulation of an originally negative one, this does not guarantee that Nielsen's proposed original prohibition had any place within the context of the Decalogue. In the light of Gerstenberger's researches,

Note 6 continued

Nielsen's original prohibition may easily have belonged in the context of the clan ethos, and may have become a positive command before being taken up into the Decalogue. Thus we prefer to keep as closely as possible to the present text by retaining the command as the original constituent of the Decalogue. For arguments in favour of the originality of the positive command, cf. Gerstenberger, Wesen und Herkunft, pp. 27, 43ff, 46; Fohrer, "Die sog. apodiktisch formulierte Recht", p.64 n.51.

6. Thou shalt do no murder.⁷

- 7 For a discussion of the meaning of the word מִצְוָה and the difference between it and the verbs אָרַח and יָרַח in its association with the sphere of blood revenge cf. Reventlow, Gebot und Predigt, pp. 71ff; and for the more general sense of 'illegal killing inimical to the community', cf. Stamm, in Stamm and Andrew, op.cit., pp. 98f. The original prohibition proposed by Nielsen, Die Zehn Gebote, pp. 68, 72, 85f, מִצְוָה לֹא תִשָּׁחֵט אִישׁ אֶת רֵעֵהוּ seems to be arrived at (a) by assuming that since his reconstruction of the 7th and 8th (his 6th and 8th, cf. below n.9) commandments, together with the 9th and 10th contain the word שָׁח , then form criticism demands that the 6th (Nielsen's 7th) also contained this word; (b) by assuming that all the commands must have had a regular rhythm, and so the form מִצְוָה לֹא תִשָּׁחֵט אִישׁ would be too short; (c) by adopting the word שָׁח from passages such as Jer. 7: 6 (though v.9 has the root מִצְוָה); 22: 3; Gen. 9: 6, which show that there was an apodictic command using this word. The original prohibition which Nielsen 'reconstructs' concerned private killing, but had nothing to do with the execution of the death penalty, killing in war, or blood revenge which is, after all, only the most primitive form of waging war. Blood revenge was a custom throughout a long period of Israel's history, and it was only with the weakening of tribal and family solidarity that it began to weaken as an institution. The clearest example of such a weakening of the institution of blood revenge is in 2 Kings 14: 5f, and it was as part of the war against the institution of blood revenge that this commandment was changed to its present form. On points (a) and (b), Nielsen's assumption that (cf. *ibid.*, pp. 68f) all the constituents of the Decalogue were originally regular, balanced prohibitions, directed against something concrete, immediately arouses suspicion. It is by no means clear that the Decalogue was ever in such a form. Since Deut. 27: 15-26 is difficult to class

Note 7 continued

as apodictic law, and since anyway it is clearly designed for antiphonal recital (cf. McCarthy, "Review of Nielsen, Die Zehn Gebote", in Bib. 48, 1967, pp. 134ff), the only text which can support the view that series of apodictic law had such a regular, rhythmical form, is Lev. 18: 7ff; but in the latter case the very fact that only one subject is dealt with lends itself to such a regular formation. Obviously then, the same thing cannot immediately be presupposed for a collection, such as the Decalogue, ranging over a wide area of subjects, cf. Gerstenberger, Wesen und Herkunft, pp. 75f. Taking point (c) along with the basis which Nielsen gives for the change which the prohibition has undergone, it may be objected that Nielsen's view of the meaning of the word נָסַח is rather narrow. The word does not only designate the action of the נָסַח לְנֶפֶשׁ in carrying out blood revenge, but is also used for the action of a man which renders him liable to the vengeance of the נָסַח לְנֶפֶשׁ. So the present form of the prohibition is directed not only at the נָסַח לְנֶפֶשׁ, but also at the murderer (נָסַח), who by his action incurs the threat of vengeance being carried out on him (to this extent 1 Kings 21: 19 cannot be taken as an exception to the normal use of the verb), cf. Reventlow, Gebot und Predigt, p. 73. The prohibition may thus be taken as part of the war against the institution of blood revenge in its broadest sense including the action of the one who by his deed institutes the process involved. But it may be asked if such a prohibition has replaced another of the sort which Nielsen envisages. There is no hint that any other prohibition but the present one ever had a place in the Decalogue. Furthermore, it seems to me unlikely that the weakening of the institution of blood revenge and therewith the war against it can be ascribed simply to contact with the city state culture of the settled land, the clearest trace of which is in the case of Amaziah in 2 Kings 14: 5f. Joab's act of blood revenge for the death of his brother Asahel (2 Sam. 3: 27) certainly did not meet with approval, and the fact

Note 7 continued

that the analogous bedouin law of the inviolability of guests seems to have died out already in the pre-monarchy period (cf. above p.94 n.165), would support the view that something more than mere contact with the Kulturland was at work here. This something would surely have been Yahwism, the obligations of which seem at any rate to have over-ridden any obligations which Jael would have felt towards her guest Sisera. Since the commands of the Decalogue would have been applicable only within the covenant community of Israel, the action of Gideon in slaying the Midianite kings Zebah and Zalmunna (Judg. 8: 18-21) need not be seen as a violation of the prohibition with which we are dealing. So we can see no period in Israel's history, from the Exodus on, in which the present form of the 6th commandment would be impossible and thus make necessary any attempts to find an 'original' which has been replaced. This is not to deny, of course, that such an apodictic command as Nielsen reconstructs may also have existed, but there is no evidence that such a prohibition ever stood in the Decalogue in place of the present one.

7. Thou shalt not commit adultery.⁸

- 8 Again with this prohibition Nielsen finds that an addition is necessary. In this he finds the support of Gerstenberger, Wesen und Herkunft, pp. 73f, who argues that the shortest form of the apodictic - the verb in the imperfect with the negative אֵל - occurs seldom and in fact is almost confined to the Decalogue. Furthermore, these short apodictic prohibitions are to be found elsewhere supplemented by closer definitions, which leads him to the view that these short prohibitions did not always have a general sense, but had a very concrete application within a given social framework. So the shortest form of the prohibitions cannot be the normal or the classical - a specifying object is necessary. Following on this, Nielsen, Die Zehn Gebote, pp. 68, 83ff., with reference especially to Lev. 20: 10, reconstructs the original prohibition in the form

אֵל אִשָּׁה-נָכְרִית אֵל . This prohibition was shortened to its present form, not with the purpose of making it applicable also to the married woman, but with the aim of giving it a much wider sphere of application in which apostasy from Yahweh was also included. In support of this Nielsen points to passages in Hosea, Jeremiah and Ezekiel where apostasy is described by using such figurative language. So the present form of the prohibition is a secondary shortening of the original, and now includes both sexual offences and religious apostasy. While one may possibly agree with Nielsen in his interpretation of the prohibition as it now stands (cf. also the wide interpretation adopted by Reventlow, Gebot und Predigt, pp. 77ff), it should be remembered that his reconstruction of the original prohibition is a conjecture based mainly on a view of the originally intended sphere of applicability of apodictic, along with a view of the original regularity of series of apodictic laws. On the latter point some criticism has already been offered in the preceding note (cf. also Eichrodt,

Note 8 continued

"The Law and the Gospel", Interpretation XI, 1957, pp. 23-40); but for his first presupposition, in which he agrees with Gerstenberger, that the short form expressing timeless, ethical ideals (cf. Gerstenberger, Wesen und Herkunft, p.73) is not the original which had rather a specifying object applying the prohibition to a given social system, is also open to criticism. That the form has undergone a development from the particular to the general (which is what the arguments of Gerstenberger and Nielsen amount to) is a proposition which cannot be accepted without question, for it is just as possible that the course of development was in the opposite direction from the general to the particular, i.e. in this case, that the original prohibition was the general

אֱלֹהִים אֶחָד and that those passages, such as Lev. 20: 10, which are apparently more restricted in their application, represent a later stage in the interpretation of the prohibition. Thus, on account of the present state of uncertainty on the course which should be followed, we prefer to retain the text of the Decalogue in the 7th commandment as it stands. On its interpretation, cf. also Stamm and Andrew, op.cit., pp. 100f.

8. Thou shalt not steal a man.⁹

- 9 The sense which is given to the verb גָּנַב in the tenth commandment (cf. below n.11), means that the present form of the 8th commandment constitutes a doublet to the tenth - both forbid the appropriation to oneself of what belongs to another. Such a doublet is impossible in a short series of commandments such as the Decalogue, especially if the latter was thought of as an 'outline of the whole will of Jahweh for Israel', even if only after a long period of development (cf. von Rad. O.T. Theology I, p.191), or was meant to include within its compass the 'whole field of apodictic law' (Alt, "Origins" p.117, cf. *ibid.*, p.120). The simplest solution to the problem appears to lie in the sphere with which these two prohibitions were originally designed to deal, i.e. in the objects to which these prohibitions referred. This involves an addition to the 8th commandment, and also an explanation of how the object which is conjectured to have been there originally came to be omitted. It is impossible to say with certainty what the exact original reference of the 8th commandment was (Rabast supplies the objects $\text{אִשׁוֹרְאָה וְעַבְדָּה}$; Alt, "Das Verbot des Diebstahls im Dekalog", *KS* 1, p. 337 n.2, thinks $\text{אִשׁוֹרְאָה וְעַבְדָּה}$; and Nielsen, *Die Zehn Gebote*, p.68 supplies $\text{אִשׁוֹרְאָה וְעַבְדָּה}$), but at least two considerations support the view that the prohibition originally dealt with the kidnapping of a free Israelite man. Alt has pointed to other laws in Ex. 21: 16 and Deut. 24: 7 which deal with this subject, though it is true that since the former is in participial style and the latter of mixed style, neither can really be claimed as apodictic. Secondly, if the prohibition did originally prohibit the kidnapping of an Israelite, there results a coherence and a recognizable sequence in the second part of the Decalogue; from the 6th commandment onwards the prohibitions would thus deal in order with the protection of the life of the Israelite, of his marriage, his freedom, his reputation and his property, cf. Stamm and Andrew, *op.cit.*, p.104. Thus, we would agree with Alt and others (besides those referred to above, cf. the references in Gese, "Der Dekalog als Ganzheit betrachtet", p.134), against Gerstenberger (*Wesen und Herkunft*,

Note 9 continued

p.74 n.1, though the latter, *ibid.*, p.73, does argue that the shortest form of the prohibition cannot be the normal) that this prohibition originally had an expressed object, though the exact form in which it was expressed cannot be reproduced with any degree of assurance. A likely explanation for the dropping of this object, thus making the prohibition one of stealing in general, has been provided by Nielsen, Die Zehn Gebote, pp. 86f. In the 10th commandment the word

𐤓𐤓𐤓 eventually came to be understood in the sense of desiring, as is shown by the fact that the repetition of the verb 𐤓𐤓𐤓 in the Exodus version of the Decalogue has been replaced in the Deuteronomy version (5: 21) by a form of the verb 𐤓𐤓𐤓. With this restriction in the original meaning of 𐤓𐤓𐤓 there was an inevitable extension of application of the 8th commandment to cover the loss incurred by the new restricted reference of the 10th, and the simplest way to accomplish this was by dropping from the 8th commandment its specifying object.

At this point, a word should be said about the order of the 6th, 7th and 8th commandments (cf. esp. Nielsen, Die Zehn Gebote, pp. 38f; Charles, *op.cit.*, p.xxv n.1). The MT version, of the Decalogue in Exodus and Deuteronomy is in the order 6, 7 and 8, but LXX^B in Deut. 5, the Nash Papyrus and Philo give the order 7, 6, 8, while for Ex. 20 LXX^B offers 7, 8, 6. Since Nielsen thinks that it is easier to explain the order 6, 7, 8, than to explain the order 7, 6, 8, he argues that the latter is the more original, cf. also Gese, "Der Dekalog als Ganzheit betrachtet", pp. 134ff. However, since this question has no particular bearing on our present subject, we have preferred for the sake of convenience to retain the sequence of commandments give by MT.

9. Thou shalt not bear false witness against thy neighbour.¹⁰
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- 10 The versions support the Ex. 20: 16 reading of $\text{לֹא תִשָּׁבַע$ against the Deut. 5: 20 reading of $\text{לֹא תִשָּׁבַע$, which may be the result of assimilation to the wording of the 3rd commandment, cf. Nielsen, Die Zehn Gebote, p.39; Stamm and Andrew, op.cit., pp. 15, 107f (though cf. further *ibid.*, pp. 110f). On the concern of this prohibition with the legal sphere, cf. Stamm, "Dreissig Jahre", p.300; Reventlow, Gebot und Predigt, pp. 82ff.

10. Thou shalt not covet thy neighbour's house.¹¹

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- 11 The arguments put forward first by J. Herrmann, "Das zehnte Gebot", in Sellin-Festschrift 1927, pp. 69-82, in support of his contention that (cf. *ibid.*, pp. 71ff) 𐤇𐤍𐤍 does not contrast will with action, but includes, even if it does not consist of altogether, the intrigues undertaken towards acquiring the thing coveted, need not be reiterated here, since they are given especially in Stamm and Andrew, *op.cit.*, pp. 102f. It is sufficient only to mention Ex. 34: 24 which provides especially strong support for the accuracy of this view. It appears, however, that one dissenter from the majority who have accepted Herrmann's results is C.H. Gordon, "A Note on the Tenth Commandment", JBR 31, 1963, pp. 208f. The latter, while not arguing explicitly against Herrmann, holds that this commandment, is to be seen in the light of Ugaritic texts where Baal is described as coveting (ḥamad), on the principle that 'opposition to alien customs is at work whenever the Hebrews make a great issue over something that is not recognizable as wrong'. However, if Herrmann's researches are accepted, Gordon's principle does not apply in this case, and therefore there is no need to posit such vague and tenuous connections with the Ugaritic texts in order to explain the commandment. More difficult to decide is the question as to whether this 10th commandment is in fact composed of two originally independent commands or of only one which has been later extended. In the Exodus version the repetition of the word 𐤇𐤍𐤍 gives the impression that 'thou shalt not covet thy neighbour's house' and 'thou shalt not covet thy neighbour's wife' are two originally independent prohibitions taken up from a series, like that of Lev. 18, using the verb 𐤇𐤍𐤍 in all its members, cf. Reventlow, Gebot und Predigt, p.90. The fact that there is no other trace in the O.T. of such a series is no strong argument against one having existed at some time, but, on the other hand, there certainly is much in favour of regarding

Note 11 continued

everything in the Exodus version of the 10th commandment, from בֵּית רֶעֶךָ to the end, as a later addition to the original nucleus formed by the prohibition 'thou shalt not covet thy neighbour's house'. By assuming that this was the original prohibition, the change in order of בֵּית and אִשְׁתְּךָ in Deut. 5: 21 gets its best explanation, for if בֵּית רֶעֶךָ was originally the only object mentioned then the sense would most probably have been the general one of 'household', cf. Noth, Exodus (ET London, 1962), p.166, and the rest of the prohibition would gradually have been appended as a more specific definition of what was covered by the general בֵּית רֶעֶךָ. However, the profusion of objects would have had the effect of giving בֵּית the sense simply of 'house' - the actual building, which in turn would have led the compiler of the Deut. 5 version of the Decalogue to change the order of 'house' and 'wife', the latter being in his view the more important. Such an explanation absolves one from attempting to account for the change by reference to the alleged more humane tendencies of Deuteronomy relative to Exodus. Cf. also Nielsen, Die Zehn Gebote, pp. 39, 82f, who also argues that everything after בֵּית רֶעֶךָ in Ex. 20: 17 is secondary. But this conclusion is reached by him on the basis of form-critical arguments, by which presumably he means the, to us, unacceptable view that all the members of the Decalogue were originally metrically regular.

Summary and Conclusions

The question which this thesis sets out to answer is: where is the origin of Israel's national consciousness to be found? The rise of 'Israel' as the people of Yahweh has commonly been explained by reference to an amphictyony considered to have existed in Palestine during the period of the judges. Thus, the amphictyony has claimed our attention in the first instance. An examination of the evidence which is available shows that this theory cannot stand the weight of the arguments which rest on it. Once the framework passages of the book of Judges especially have been stripped away, it appears that there results an accurate presentation of conditions as they existed in Palestine in the pre-monarchy period. There is here no outward expression, either in political organization and action or in forms of worship, of that unity which held these tribes together as the people of Yahweh.

But since it is in its faith that Israel did have this unity, it is only ~~by~~ examining this faith that it is possible to account historically for this unity. This in turn can only be done by finding the form of worship practised by this divided people and by tracing this form back to a period from which it would be possible to explain the fact of its being common to the people as a whole in later periods.

Thus, attention is directed in the first instance to Josh. 24. It is believed that this reflects the covenant worship of Israel, as practised at any rate in Shechem, in the pre-monarchy period. The form which this covenant worship had reveals the influence of the Ancient Near Eastern treaty form in many parts. Unfortunately, no comparable source is available for discovering the forms of worship practised in the southern part of the land at this same time, but indirect witness by the psalms and prophets, together with isolated passages in the books of Kings, attest familiarity in Judah and Jerusalem with a covenant form of worship similar, if not identical with that practised at Shechem. At any rate, there is the same combination of theophany, proclamation of law, reliance on the historical tradition of the Exodus, and also traces of influence from the Ancient Near Eastern treaty form, attested especially by the Rib speeches in the prophetic books.

For the background and basis of this covenant tradition evidenced in both northern and southern parts of Israel in Palestine we turn to the Sinai pericope. Investigation of this section leads to the conclusion that, contrary to what has on several occasions been argued, here also it may be seen that there was practised a covenant form of worship which included expressed obligations. These covenant obligations of the original Sinai covenant are probably to be seen in the Decalogue.

In distinction to the covenant worship of later Israel and Judah, however, there is no clear sign of influence on the Sinai covenant of the Hittite treaty form. When and where this influence affected Israel's expression of its relationship with Yahweh are still unresolved questions, though it seems that since the treaty form was an international one in the early period these may be the wrong questions to ask. At any rate, there is present, at Sinai, the same combination of theophany and proclamation of law as we find with later covenant celebrations in Israel.

If covenant worship of a form similar to that practised in Shechem of the pre-monarchy period is attested for Judah of the monarchy period, there are two possible ways of accounting for its presence there. Either, this form of worship spread to the south in the time of David, or it is the expression of a genuinely Judean tradition reaching directly back to Sinai/Kadesh. Several considerations rule out the first possibility. There is especially the fact that if the covenant worship practised in Jerusalem derived from the northern part of the land, and was not also a genuinely southern tradition, this would have resulted in an imbalance in the position of Jerusalem which would have quite defeated David's aims for that city. Furthermore, there is historical tradition which directly links the southern sanctuary of Hebron with Kadesh, which would lead us to the conclusion that

it is the second of the two possibilities given above which should be followed.

Thus, it is argued here that Israel's consciousness of itself as the people of Yahweh reaches back to the time spent at Kadesh. Here contact was established between what were to be later northern and southern elements in the land of Palestine after settlement. And it was also here that these two parts of the later Israel received their fundamental unity in the worship of Yahweh - a unity which persisted right through the post-settlement period in spite of all political divisions.

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